

## **ARTICLE 10 LEAVES**

### **10.1 Sick Leave**

Sick leave provides continuation of pay to the District worker who cannot perform her/his duties because of physical or mental illness or injury.

Each full-time worker of the District earns sick leave at the rate of eight hours per month. New workers employed after the 10th of the month shall have their sick leave pro-rated for that month. Workers including classified hourly employees who regularly work fewer than 40 hours per week are entitled to that proportion of sick leave granted full-time workers that is equal to the percent of a full-time contract. During extended sick leave, a worker ceases to earn sick leave beyond his or her potential entitlement for the current fiscal year but continues to earn vacation leave. There is no limit to the amount of sick leave which either full or partial contract workers may earn and accumulate from year to year.

Sick leave may be used in increments of one-quarter hour or longer. A worker has available for use all of his or her earned sick leave plus the balance of his or her full potential entitlement for the current fiscal year. The number of sick leave hours earned, the number used during the current fiscal year, and the worker's balance will appear on the check stub each month.

Sick leave may be used for appointments with doctors or dentists or (after all personal necessity leave has been exhausted) up to seven days can be used for care of an ill member of the worker's immediate family (as defined in Section 10.15). Under certain circumstances approved by the Director of Human Resources, sick leave can also be used for other reasons of personal necessity.

A worker may not be gainfully employed while absent on illness or accident leave. Sick leave may not be used to extend a weekend or vacation when the worker is not actually sick. Sick leave is not a "rest leave" unless so prescribed by a physician.

Whenever a worker is absent on sick leave for three or more working days or when a pattern of sick leave suggests a chronic illness, a medical report that outlines the nature of the problem and the probable date of full recovery may be required. If the information from the worker's personal physician is insufficient, an examination by a physician of the District's choosing may be required, at District expense.

Any worker who transfers after at least one year of service from one school to another when no more than one year intervenes between termination in one district and employment in the other, should request that unused sick leave be transferred.

During any fiscal year a worker may convert up to 60 hours of earned sick leave credit in excess of 240 hours to vacation leave credit at the rate of six hours of sick leave credit for four hours of vacation leave credit. The request to convert sick leave credit to vacation leave credit under this section must be made in writing to the Director of Human Resources and will be approved only if the vacation leave credit does not cause the vacation leave balance to exceed the maximum accrual allowed as defined in Article 9, Section 9.2.4. Any vacation leave credit granted under this section must be scheduled at the time it is requested and must be used as vacation leave within 30 days of the request for conversion unless the worker's worksite is closed on Fridays during July and August and the request for conversion is submitted for the irrevocable purpose of covering Fridays during those months.

Disabilities caused or contributed to by pregnancy, childbirth, miscarriage, or abortions are considered as temporary disabilities for which sick leave may be taken. Any time that the physician states was lost because of inability to work will be counted as sick leave.

A woman who is pregnant may work until such time as determined by her physician that it is no longer safe for her to continue working. After childbirth she may return to work after obtaining a written statement from her physician that she is physically well enough to resume work.

Upon being declared by her physician as physically well enough to work, the woman ceases to be covered under sick leave. Leave taken after that time is considered as parental leave.

## 10.2 **Extended Sick Leave**

Each classified worker shall be entitled to extended sick leave for illness or injury at the end of all full-pay sick leave or at the end of 10 consecutive working days, whichever is later, and continuing for up to 130 working days from the first day of absence because of illness or injury. Extended sick leave shall be granted in increments of not less than one full day for each working day of absence due to illness or injury.

A classified worker on extended sick leave shall be entitled to extended sick leave pay as follows:

10.2.1 For a full month's absence, an amount that equals  $66 \frac{2}{3}$  percent of the worker's "basic monthly earnings" on the date he/she was first absent, to a maximum payment of \$6000 per month. "Basic monthly earnings" means  $\frac{1}{12}$ th of the worker's annual contract salary.

10.2.2 For less than a full month's absence, an amount that equals an appropriate fraction of the extended sick leave pay calculated under 10.2.1. The fraction shall be determined by dividing the number of days of absence during the partial month by 20.

After the exhaustion of all extended sick leave, a classified worker shall be notified by the Director of Human Resources that he/she may resign or apply for an unpaid leave due to disability. If such a leave is applied for, it may be approved for up to (5) months. If the worker fails to resign, retire, or apply for such a leave, or if the leave or an extension of a leave is denied, the worker shall be placed on a 39-month reemployment list. In any event, if the worker remains disabled beyond the period of extended sick leave, he/she shall receive long-term disability benefits under Article 18 in the manner prescribed in the District's long-term disability insurance policy.

### 10.3 **Sick Leave Donation**

10.3.1 A worker may donate days of sick leave to individual District workers who, due to a serious health condition, have exhausted all accumulated sick leave. Donating workers must retain a sixty (60) day balance of sick leave after their donation. No worker may receive more than 40 days of donated leave per year.

10.3.1.1 A “serious health condition” is defined as an illness, injury, impairment or physical or mental condition which involves inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or continuing supervision by a health care provider as defined in 29 USC 825.114(a) and as certified by a worker’s physician or other qualified medical practitioner.

10.3.1.2 The Vice Chancellor of Human Resources and the Chief Stewards by mutual agreement will verify the certification for eligibility. If the certification from the worker’s physician is insufficient, a certification by a physician of the District’s choosing may be required, at District expense. The District may require additional medical opinions.

10.3.2 Donated leave must be in one-day increments (no less than 8 hours). Recipients of donated sick leave shall be solely responsible for any state and federal taxes on the donated time. Such taxes shall be withheld at the normal rate for the recipient worker. In the event that the state or federal governments rule that tax liability is due other than as taxed, the recipient shall be solely liable for such liabilities.

10.3.2.1 The donated sick leave may be used only when the worker has exhausted accumulated sick leave and either is not eligible for long-term disability or is eligible but has not begun to receive the long-term coverage.

10.3.2.2 The Vice Chancellor of Human Resources shall be notified of solicitation of donations. Solicitations of donations may be made by the individual or his/her representative(s).

10.3.2.3 Donation of sick leave shall be authorized by a signed pledge form prepared by and filed with the District Office of Human Resources.

In the event several workers donate sick leave, the sick leave shall be used in the order in which the signed pledge forms are filed with Human Resources.

- 10.3.2.4 If the worker does not use all donated sick leave, the sick leave shall be returned to the donating worker(s).

#### 10.4 **Parental Leave**

A worker may be granted a maximum of one year of unpaid leave of absence to care for a newborn or recently adopted child. The request for parental leave must be made in writing. The Office of Human Resources will then ask the Chancellor to refer it for action by the Board of Trustees. Leave to care for a newborn or recently adopted child runs concurrently with FMLA.

A worker on parental leave must notify the Office of Human Resources within seven months after the start of the leave whether she/he intends to return to the employment of the District. Failure to comply with this regulation will void the responsibility of the District to find employment for the worker.

The worker will be reinstated within a period of one year from the start of the leave, and the District shall attempt but make no guarantee to place the worker on the same campus or in the same assignment as that which was held when the leave began.

Time used in unpaid parental leave may not be counted in the calculation of salary increments and other seniority factors.

#### 10.5 **Bereavement Leave**

Workers shall be granted a leave with full pay in the event of the death of any member of the worker's immediate family, (as defined in Section 10.15). Bereavement leave shall be for a period of up to three days, except that it may be for up to five days if out of state or more than 250 miles in-state (one way) travel is required or if the death is of a spouse, domestic partner or child.

- 10.5.1 Bereavement leave may be extended by the Director of Human Resources when unusual circumstances such as travel or the settlement of an estate demand it.

#### 10.6 **Jury Duty**

In order to encourage workers to accept jury duty as a responsibility of citizenship, the District will pay workers at their regular rate of pay while they are performing jury service. When jury duty consumes only a portion of the day, workers are expected either to report to work immediately after jury duty or to have pay canceled for the day. A worker must reimburse the District for the fee received from jury duty by having that amount reduced from their paycheck.

Absence from assigned duties to perform jury service will be reported in the same manner as other absences, but the worker shall attach a copy of the summons to jury duty to his or her monthly time report. Ordinarily an absence for jury duty lasts a single day, making the employment of a substitute unnecessary. If a paid substitute is needed for absence of prolonged duration for jury duty, the same procedures will be followed as those instituted for a worker who is absent for illness.

The District cannot be responsible for the salary of its workers when they become litigants in their own behalf.

10.7 **Military Leave**

A worker shall be entitled to military leave as provided by Military and Veterans Code Sections 395 to 395.9.

10.8 **Quarantine**

A worker will receive full compensation when quarantined by city or county health officials because of the illness of another person. He/she must, however, register the official document of the quarantine with the Office of Human Resources before receiving pay.

10.9 **Industrial Accident Leave**

Industrial accident leave provides continuation of pay to a worker who suffers an accident directly connected with the job. It does not affect the amount of accumulated sick leave. Industrial accident leave does not accumulate from year to year. If an absence overlaps into a new fiscal year, the worker will have available only that amount of industrial accident leave which has not been used in the prior fiscal year for the same accident. A worker may have no more than sixty days of industrial accident leave for the same accident or illness.

Leave pay commences with the first day of absence. When a worker is eligible for Worker's Compensation, the compensation from that source is deducted from his/her pay so that the amount from both sources is equal to regular pay. If the worker is still receiving Workers' Compensation, the worker may elect to use his or her accumulated paid leave (sick leave, personal necessity leave, vacation leave, or comp time) in an amount which, when added to the Workers' Compensation award, equals a full day's salary. After sick leave is exhausted, the worker is eligible for extended sick leave (see 10.2). At any time that the worker receives Worker's Compensation, the amount will be deducted from the salary paid by the District. If the absence must continue after he/she is no longer eligible for compensation from the District, the full amount of the funds from Worker's Compensation may be retained by the worker.

Industrial accident leave is not considered a break in service, and the individual (if physically able) has the absolute right to return to a position in the class which he/she left, so long as the absence is not longer than the total of industrial accident leave, sick leave, and all other available leaves of absence paid or unpaid.

### **TREATMENT BY PERSONAL PHYSICIAN:**

A worker has the right to be treated by his/her personal physician from the date of injury. To exercise this right, the worker must notify the Office of Human Resources in writing of the name of his/her personal physician prior to the date of injury. The physician must be a qualified practitioner who has previously directed the medical treatment of the worker and who retains the worker's medical records. A form for filing this information is available from the Office of Human Resources.

#### **10.10 Personal Necessity Leave**

Each full time permanent or probationary worker shall be granted up to a maximum of 40 hours of paid leave per year for reasons of genuine personal necessity. Workers who work fewer than 40 hours per week are entitled to that proportion of personal leave granted full-time workers that is equal to the percent of a full-time contract. Each classified hourly employee shall be granted up to 3 days of paid leave per year on a pro-rata basis. Eligibility for personal necessity leave begins on the first of the calendar month following six complete months of employment. For the purpose of this section "personal necessity" means obligations or unavoidable duties of an individual worker that must be performed during regularly scheduled working hours. The number of hours of leave remaining will appear on the check stub each month. Circumstances under which personal necessity leave is appropriate include, but are not limited to:

- 10.10.1 Emergencies or obligations related to the worker's home or family members, including medical or dental appointments for the worker's family members when the nature of the appointment requires the worker's presence, or special family obligations such as attending a family member's graduation or marriage ceremony;
- 10.10.2 Emergencies or obligations related to the worker, including appointments for the purpose of conducting personal legal affairs or financial transactions, receipt of a court order requiring absence from work, or observation of a major religious holiday of the worker's faith.

Personal necessity leave may not be used for recreation, planning a vacation, or social events, nor may it be used in lieu of vacation or sick leave (except after an illness of 10 working days or more and no full-pay sick leave is available, a worker may use personal necessity leave.) Unless there are unavoidable and compelling reasons (i.e., medical appointments or illness after being on extended sick leave) personal necessity leave may not be taken in conjunction with any holiday, sick leave, vacation, or other leave of absence.

Personal necessity leave is not cumulative. It must be scheduled in advance with the supervisor whenever possible. When advance scheduling is not possible because of an emergency situation, the worker is required to notify the supervisor as soon as possible that the worker is requesting personal leave. All personal leave must have the approval of the supervisor as evidenced by the supervisor's signature on the time sheet.

To ensure confidentiality, a worker may request Personal Necessity Leave by the subsection number without giving the exact nature of the request. The worker's appropriate supervisor(s) may require a more exact explanation before granting Personal Necessity Leave, in which case the worker may respond orally and the response shall be considered confidential between the worker and his/her supervisor(s). In unique emergency situations additional hours of personal necessity leave may be granted by the Director of Human Resources.

#### 10.11 **Unpaid Leave of Absence**

10.11.1 Leave of absence without pay for a specific purpose and for a designated length of time not to exceed one year, or an extension upon request, may be granted under the following conditions:

- a. A suitable short-term worker is available to fill the position of the worker on leave;
- b. The absence of the worker will not reduce the efficiency of the program of the District; and
- c. The worker can give reasonable assurance that he/she will return to the position at the conclusion of the leave.

If during an unpaid leave of absence the worker continues to meet the definition of "qualified classified worker" under Article 18 (Paid Benefits), Section 18.1 or 18.2, he/she shall continue to receive paid benefits. If a worker on unpaid leave of absence does not meet this definition, he/she may continue to receive benefits by reimbursing the District in advance for the full premium or its equivalent, as specified in Section 18.11. To receive vacation credit, personal necessity leave credit, or sick leave credit during an unpaid leave of absence, a worker must be in paid status for at least 12 working days during each monthly reporting period.

#### 10.11.2 **Rights of Worker Upon Return from Leave**

A worker returning to duty after an approved leave of absence without pay shall be returned to the same assignment held prior to the leave, providing the worker has met the conditions under which the leave was granted. If the assignment no longer exists, the District shall place the returning worker in another position as soon as one is available for which he/she is qualified and shall endeavor to place

her/him in a position in the same salary range as the one held at the time the leave was granted. Time spent on unpaid leave of absence does not count toward seniority, salary increments, personal necessity leave credit, sick leave credit or vacation credit. Each month during which the worker is not in paid status will not count toward the anniversary date and will advance it by one month.

#### 10.12 **District-Initiated Disability Leave**

When a condition has caused a worker to be unable to carry out assigned duties or has interfered with the educational program or other work of the District or threatens the safety or welfare of the worker, the students, or the other workers of the District, the District may place the worker on disability leave of absence. The Director of Human Resources shall set the beginning date of such leave, taking into account the available medical information, the worker's job performance, and the interests and requirements of the worker, the students, and the other workers of the District. A worker on disability leave may return to work with the permission of the Director of Human Resources, who may require such medical information as is deemed reasonably necessary to make a decision, including an examination by a physician selected by the District at District expense. A worker on a disability leave of absence initiated by the District is considered to be on sick leave and is entitled to the pay and other benefits of any other worker on sick leave, (see 10.1 and Article 17A).

#### 10.13 **Staff Development Leave**

To encourage and enable classified workers to enhance their value to the District through further job-related education, the upgrading of their skills, or retraining for a different career path, a Staff Development Leave has been established. A worker may apply for Staff Development Leave to begin upon completing seven (7) years of service in the District. The leave may be from one to ten months at 85% of full pay. Such leaves may be taken in one-quarter increments to a maximum of ten months. A worker becomes eligible for additional leaves after completing increments of seven (7) years of service to the District.

Classified hourly employees are not eligible for Staff Development Leaves.

An eligible worker may, on a leave request form provided by the Human Resources Office, apply through his or her supervisor for a Staff Development leave. The leave may be used to complete interrupted studies, learn by observing methods used in industry or other educational institutions, or get a substantial start on a goal of better education. The written application must present a detailed description of the proposed activities of the leave and the potential value of these activities to the District as well as the learning outcomes that are expected from this leave. If the worker intends to enroll in school, the application must identify the educational institution to be attended and, by academic term, a list of courses (with course descriptions) the worker will be taking. The application shall contain precise dates for the beginning and ending of the leave. If a unit member is attending school full time, which is 12 units either semester or quarter for undergrad and 8

units semester or quarter for graduate, then the unit member does not have to participate in other activities related to the leave. However, if the unit member is not going to school fulltime, other activities related to the leave must be completed in fulfilling the 12-unit minimum. For this purpose, one hour of activity per week equals one unit and so forth. Any changes to the leave must be submitted in writing to the Director of Human Resources who will consult with the Staff Development Leave Committee, to approve such changes prior to the unit member participation in those changes. The committee has the authority to make exceptions as it deems appropriate.

All applications for the succeeding college year must be received by the Director of Human Resources before December 15. Unit members may submit a copy of their request for leave without appropriate signatures by December 15; however, all signatures must be received by January 31. Each application that has been submitted and has received the recommendation of the immediate supervisor and the appropriate administrator shall be forwarded to the Classified Staff Development Leave Committee for review and recommendation to the Chancellor. This Committee shall be composed of two representatives of ACE, two representatives of Unit A, and two administrators designated by the Chancellor, one of whom will serve as chairman. Funding for a minimum of ten (10), ten-month leaves per year shall be guaranteed. If the number of recommended applications exceeds the number agreed upon for the year, the Committee shall establish procedures for deciding which leaves shall be recommended to the Chancellor for submission to the Board. Board-approved leaves will be announced by March 1 of each year.

If a leave is granted, the worker must agree in writing to render, upon return from leave, a minimum of two months of service to the District for each month of staff development leave. Failure to render this service will require the worker to refund the salary paid by the District during the leave. Within thirty days of return from a leave, the worker shall submit a written report to the Classified Staff Development Leave Committee of the activities of the leave, emphasizing the value to the District and the learning outcomes achieved. If the worker attended school during the leave, he or she shall also submit a transcript or other appropriate documentation showing satisfactory attendance and successful completion of the course work as soon as reasonably possible. The worker may apply for Educational Assistance for courses taken during the leave. Classes taken during Staff Development leave for which the worker receives Educational Assistance are not eligible to be used to qualify for a Professional Growth Award as defined in Article 8.5 and Appendix B.

After reviewing the report, the Classified Staff Development Leave Committee shall either approve the report or request further information from the worker. If, after requesting further information from the worker the Classified Staff Development Leave Committee is unable to establish that the worker satisfied the conditions of the leave, the committee may, if it determines it is appropriate, after considering possible mitigating circumstances, recommend to the Director of Human Resources that the worker be required to compensate the District for the expense of the leave. The decision of the committee may be reviewed by the Chancellor at the request of the worker.

During the leave the worker will be entitled to all the benefits of classified contract workers except that only 85% of service time will be credited by the Public Employees Retirement System. The worker may, however, arrange to make a contribution to the System to insure full service credit for the period of the leave as provided by the regulations of PERS. During the leave the worker shall earn 85% of the normal credit for sick leave and seniority. No vacation credit shall be earned during a Staff Development Leave.

#### 10.14 **Break in Service**

A break in service results from a separation from employment with the District because of resignation, retirement, layoff, or termination during probation or dismissal. Unless expressly provided elsewhere in this *Agreement*, a break in service results in loss of permanent status, seniority, accumulated sick leave, personal necessity leave credit, vacation status, placement on the salary schedule, and eligibility for retiree and other benefits. No paid leave of absence shall constitute a break in service.

No unpaid leave of absence shall constitute a break in service (see 10.11) but time spent on an unpaid leave shall not count toward attainment of permanent status, accrual of seniority, accrual of sick leave, vacation leave or personal necessity leave credit, advancement on the salary schedule, or eligibility for retirement and other benefits.

#### 10.15 **Immediate Family**

For purposes of this article only, the definition of "immediate family," when used in connection with any leave provided in this article, shall mean: Husband, wife, domestic partner, mother, father, sister, brother, son, daughter, grandparent, grandchild, parent-in-law, foster parent, step parent, step child, foster child, brother-in-law, sister-in-law, son-in-law, or daughter-in-law. "Immediate family" shall also include any relative of the worker, or of the worker's spouse or domestic partner living in the immediate household of the worker.

#### 10.16 **Family Medical Leave**

In accordance with state and federal law and District policy, under certain conditions workers may be eligible for an unpaid leave of absence for up to twelve (12) weeks for reasons related to family circumstances. Qualifying circumstances would include but not be limited to: birth of a child; care of a child, spouse or parent with a serious health condition; or adoption.

10.16.1 Workers should consult Appendix F regarding eligibility, application procedures, and other procedures related to family leave.

10.16.2 Workers who qualify for paid benefits under Article 18, Section 18.1 shall continue to receive paid medical benefits while under family leave.

Use of family medical leave for a qualifying circumstance including the worker's own serious illness runs concurrently with other paid and unpaid leaves granted by the District.

10.17 **Long Term Union Business**

Upon written request from the Union, the District may grant unpaid leave for Union business. This leave may be granted if the needs of the District can be met and a suitable replacement is available.

No more than one (1) worker may be on leave for Union business at the same time, unless the District and Union mutually agree to more than one. Leaves will be granted for a period of time which will be set forth in writing at the time the leave is granted but not in excess of twelve (12) months.

Leaves granted under this section shall not constitute a break in service. Workers returning from such leave shall return to the same position as previously held.