

**MERCER COUNTY SCHOOLS
Policy Comment(s) / Suggestion(s)**

**Policy: G-05
Leaves of Absence/Personal Leave (With or Without Cause)**

Individual / Organization: _____

Title: _____

Address: _____

Comment(s) / Suggestion(s)

Please write your comments below in the sections that apply to the policy.

Use additional paper if necessary.

1.0 Purpose

Agree (reason)

Disagree (reason)

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| This policy is being revised to align with the requirements established by the Family and Medical Leave Act. | | |
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2.0 Definitions

Agree (reason)

Disagree (reason)

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3.0 Procedures

Agree (reason)

Disagree (reason)

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General Comments

Agree (reason)

Disagree (reason)

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Return comments **NO LATER THAN February 13, 2018** to:

Dr. Kristal Filipek - Director, Human Resources

Mercer County Schools

1403 Honaker Avenue

Princeton, WV 24740

**LEAVES OF ABSENCE/PERSONAL LEAVE
(With or Without Cause)**

1.0 Purpose

Mercer County Schools is committed to protecting the job rights of employees absent on Leaves of Absence, including: Medical Leave, Family Leave, Parental Leave, Military Leave, Military Caregiver Leave, Workers' Compensation, and Advance Study Leave.

As per WV Code 18A-2-2a, 18A-4-10f, 21-5D-1 et al., the Mercer County Board of Education does hereby institute this policy for Leave of Absences/Personal Leave of ~~Illness and Other Causes~~ **(With or Without Cause)** and establish a means by which employees may donate personal leave days to any specific employee who is experiencing a catastrophic medical emergency. This policy outlines procedures employees shall follow in requesting and reporting absences, as well as, application processes for extended leaves.

At the beginning of the employment term, any full-time employee shall be entitled annually to at least one and one-half days personal leave for each employment month or major fraction thereof in the employee's employment term. Unused leave shall be accumulated without limitation and shall be transferable within the state. A change in job assignment during the school year does not affect the employee's rights or benefits.

Copies of this policy shall be available to employees upon request and will be placed on the Mercer County Schools web-page at <http://boe.merc.k12.wv.us> under the online services tab.

2.0 Definitions

- 2.1 **Advance Study Leave** – May be granted to an employee that has been accepted and registered as a full-time student (unless in final term of program) at an accredited institution of higher education.
- 2.2 **Catastrophic Medical Emergency** - Medical or physical condition that 1) incapacitates an employee or an immediate family member for whom the employee will provide care; 2) is likely to require the prolonged absence of the employee from duty; and 3) will result in a substantial loss of income to the employee.
- 2.3 **Donated Days** – (Personal Leave with Cause) - Days voluntarily deducted from the accumulated number of days a donor employee has earned and credited to the receiving employee to be used only for absence(s) due to the purpose for which transferred.

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- 2.4 **Donor Employee** - Person employed by a county board who voluntarily contributes personal leave to another designated employee.
- 2.5 **Emergency** - A sudden and unexpected turn of events calling for immediate action.
- 2.6 **Employee** - Person who is employed by a county board and entitled to accrue personal leave as a benefit of employment.
- 2.7 **Family Leave** -Any leave granted under provisions of West Virginia Code § 21-5D-1.
- 2.8 **Immediate family** – The spouse, child, parent, grandparent, grandchild, brother, sister or current spouse’s relative in same relationship.
- 2.9 **Leave of Absence Committee** – Committee appointed by the Superintendent, consisting of representatives from professional and service employees, charged with evaluating leave requests and making recommendations regarding eligibility.
- 2.10 **Medical Leave** – May be granted for a period of one year for a serious health condition that makes the employee unable to perform their job, or leave may be granted for a period of up to twelve weeks to care for the employee’s spouse, child, or parent who has a serious health condition which keeps the employee from his/her regular work.
- 2.11 **Military Leave** – Will be granted to employees who are members of the National Guard or military reserve unit of the United States armed services upon presentation of orders requiring their participation or services to the superintendent or his/her designee.
- 2.12 **Personal Leave With Cause** – Day(s) claimed when an employee is absent from assigned duties due to accident, sickness, death in the immediate family, or life threatening illness of the employee’s spouse, parents or child.
- 2.13 **Personal Leave Without Cause** – Three days of leave annually that an employee is permitted to use without regard to the cause but not to exceed the total amount of leave to which the employee is entitled.
- 2.14 **Receiving Employee** - Person employed by a county board who receives donated personal leave from another employee.

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- 2.15 **Required Maternity Leave** – Leave initiated when an employee does not request voluntary maternity leave but, in the opinion of the employee’s attending physician, is unable to continue her duties or when an employee is no longer carrying out her regular duties in a satisfactory manner. Such leave shall require the recommendation of the Superintendent and approval of the Board of Education. Employees may return to duty when the attending physician certifies in writing that the employee is able to resume regular duties.
- 2.16 **Voluntary Maternity/Paternity Leave** – Request by employee for maternity/paternity leave for pregnancy, for convalescence after childbirth, or for adoptive or infant bonding for a period of up to one year. This leave shall extend to either or both parents.

3.0 Procedures

- 3.1 **Personal Leave without Cause:** Each employee is permitted to use three (3) days of leave annually without regard to the cause; however, request for such leave may be denied if fifteen percent (15%) of employees or three (3) employees, whichever is greater, under the supervision of the principal or immediate supervisor have requested use of personal leave without cause or due to an emergency situation.
- 3.1.1 Personal leave may not be used in connection with a concerted work stoppage or strike.
- 3.1.2 The employee will submit a request for personal leave without cause twenty-four (24) hours in advance unless circumstances prevent such notice.
- 3.1.3 Personal 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.
- 3.1.4 If an employee chooses not to use the leave without cause days they will be carried over, but an employee may not accrue more than six (6) personal leave without cause days. If more than six (6) are unused, the balance would accumulate as personal leave with cause.
- 3.2 **Personal Leave with Cause:** The employee shall notify his/her principal or immediate supervisor so that appropriate steps can be taken in the absence of the employee. Upon return to work, employees must fully complete the appropriate claim form, including

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“nature of illness”, or reason for the absence, and submit it to their principal or immediate supervisor.

3.2.1 For an extended absence, ~~five (5)~~ **ten (10) consecutive** days or more, employees shall give prior notification to their principal or immediate supervisor, and ~~will present a statement (if cause is medical) from the attending physician upon their return.~~ **shall request a Medical Leave of Absence packet from the Human Resource Department.**

3.2.2 A death in the employee’s immediate family shall permit the employee to claim up to three (3) days of personal leave with cause; however, the employee may not exceed his/her accumulated leave balance.

3.2.3 An employee who has exhausted his/her paid leave but requires additional time off may submit a request for donated Personal Leave with Cause Days (if a “catastrophic medical emergency” exists) and request a leave of absence. Required forms are available in the Human Resource Department (§18A-4-10f).

3.3 Donated Personal Leave with Cause Day(s):

3.3.1 An employee may voluntarily transfer an unlimited number of Personal Leave with Cause Days to his/her spouse who is experiencing a catastrophic medical emergency and up to three (3) Personal Leave with Cause Days to an employee who is not his/her spouse.

3.3.2 No employee shall be coerced or compelled to contribute personal leave with cause days.

3.3.3 All requests to donate or to request donated days pursuant to this policy are to be submitted to the Superintendent or his/her designee on the form provided by the Human Resource Department.

3.3.4 Donated Personal Leave with Cause days may not be used to qualify for or add service for any retirement system administered by the state or to extend insurance coverage provided by PEIA.

3.3.5 Donated Personal Leave with Cause days shall be credited to the receiving employee as one full personal leave with cause day without adjustment being made based upon the hourly wage of each employee.

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- 3.3.6 Donated Personal Leave with Cause days shall be used only for an absence due to the specified purpose for which donated.
- 3.3.7 The Payroll Coordinator shall date/time stamp donated days as they are received.
- 3.3.8 Donated personal leave with cause days shall be used in chronological order as received.
- 3.3.9 Donated personal leave with cause days that are unused following the end of a catastrophic medical emergency shall be returned to donors in the reverse order received.

3.4 General Absences:

- 3.4.1 The following items are included in an effort to make employees aware of expectations that may apply to use of: accrued personal leave, employee responsibilities, and Leaves of Absence.
- 3.4.2 An employee who exhibits one or more of the following behaviors may be asked to provide an explanation or documentation, may receive suggestions, recommendations, or placed on an improvement plan or subject to other disciplinary actions if attendance does not improve:
 - 3.4.2.1 Absences that reflect a pattern such as, but not limited to, days before/after holidays, weekends, or pay day.
 - 3.4.2.2 Absences during unresolved situations with parent(s) and/or supervisory personnel.
 - 3.4.2.3 Unreported and/or unexplained absences of ~~five (5)~~ **ten (10)** consecutive days or longer.
 - 3.4.2.4 Failure to notify the immediate supervisor of the employee's intended absence from work.
 - 3.4.2.5 Absences in excess of fifteen (15) days in one school year.

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3.4.2.6 Absences in excess of the number of personal leave accrued for that employee.

3.5 General Criteria for Mercer County Board Leaves of Absence:

- 3.5.1 When an employee has exhausted all of his/her personal leave days or **has been absent for ten (10) or more consecutive days** he/she must return to work or promptly apply for a leave of absence.
- 3.5.2 Should an employee fail to request a leave of absence or if the leave is not approved and if such employee fails to return to work, the Board may declare the contract terminated.
- 3.5.3 Requests for two (2) consecutive leaves of absence for different reasons may be approved only if the total leave does not exceed one (1) calendar year or when extraordinary circumstances exist.
- 3.5.4 When an employee returns to work after a leave of absence and requests an additional leave, thereafter, the request shall be granted if it meets the requirements of the policy.**
- 3.5.5 If an employee returns to work within one (1) calendar year from an approved leave of absence, he/she shall be entitled to return to his/her former position unless they meet criteria in 3.4.8 of this policy.
- 3.5.6 Any employee on an approved leave up to one (1) year shall be responsible for the employee portion of the insurance premiums. Insurance premiums must be paid to the business office by the 5th of the month to avoid termination of coverage.
- 3.5.7 If an employee's leave of absence extends beyond one (1) year, the employee shall be entitled to a position appropriate to certification or classification which becomes available after his/her return.
- 3.5.8 Any employee on an approved leave of absence for more than one (1) calendar year shall be responsible for the total insurance premiums (individual and Board of Education portion) if he/she desires to continue insurance coverage. Insurance premiums must be paid to the business office by the 5th of the month to avoid termination of coverage.

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(Revised: 10/08/13)**

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- 3.5.9 If the employee is on a leave of absence and during that leave of absence is placed on administrative transfer or terminated due to a reduction in force, the employee would not return to his/her former position.
- 3.5.10 An employee who obtains a leave of absence on the basis of a physician's recommendation must, before returning to work, submit a statement from the physician indicating that 1) the employee is capable of resuming their duties, and 2) with an effective date, to the Human Resource Office.
- 3.5.11 Any employee on an extended unpaid leave shall retain seniority, rights and privileges which had accrued at the time of the approved leave of absence.
- 3.5.12 Dues for professional memberships will not be deducted during the leave of absence.
- 3.5.13 A leave shall not be granted to enable an employee to accept any other employment ~~nor is leave to be given for longer than one year.~~
- ~~3.5.15 Employees may utilize accrued personal leave prior to applying for long term leaves of absence; however, they are not **required** to use accumulated annual leave or personal leave prior to requesting an extended leave of absence.~~
- 3.5.14 During an approved leave, an employee may not be employed in any other position including but not limited to: acting as a sales consultant for an on-line or home-based business or any position where income is derived, or any other employment, full-time or part-time. Said employment shall result in immediate termination of the leave of absence.
- 3.5.15 An employee shall be considered to have voluntarily resigned from employment in the following instances:
- 3.5.15.1 When an employee uses all of his/her personal leave days and does not request a leave of absence and the employee fails to report to work.
- 3.5.15.2 When an employee's request for a leave of absence is not approved, and the employee fails to report to work.

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- 3.5.15.3 When an employee has used all of his/her paid and unpaid approved leave, and the employee fails to report to work.
- 3.5.16 Failure to request a “leave of absence” when accumulated leave has been exhausted and the employee fails to report for their assigned responsibilities shall constitute willful neglect of duty and insubordination, and the employee may be recommended for termination.
- 3.5.17 It is the employee’s responsibility to provide the Superintendent or Human Resource Department with required reports, orders, or paperwork.
- 3.5.18 While on a leave of absence, it is the employee’s responsibility to pay all insurance premiums or other benefits that may be interrupted by the leave of absence.
- 3.5.19 Under certain circumstances, if an employee fails, without good reason, to return to work at the conclusion of an approved leave, the Board may be entitled to recover its cost of the health care premium directly from the employee.
- 3.5.20 An employee providing false or misleading information in his/her request for a leave of absence will be subject to disciplinary action, up to and including termination.
- 3.5.21 If an employee uses personal leave which the employee has not yet accumulated on a monthly basis and subsequently leaves employment; the employee is required to reimburse the board for the salary or wages paid for the unaccumulated leave.
- 3.5.22 Upon retirement, conversion of accumulated leave will be used in compliance with West Virginia statute.
- 3.6 **Medical Leave:** An employee shall not be required to use accumulated annual leave or personal leave prior to taking an extended unpaid leave of absence.
 - 3.6.1 Prior to approval of medical leave, an employee shall be notified of eligibility, rights and responsibilities for taking a Family Medical Leave of Absence under the federal guidelines of the Family Medical Leave Act (FMLA).

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- 3.7 **Family Leave:** Leave granted to an employee for a period of up to twelve (12) weeks of unpaid leave, following the exhaustion of all his/her annual and personal leave, during any twelve-month period: (§ 21-5D-4)
- 3.7.1 Because of the birth of a son or daughter of the employee.
 - 3.7.2 Because of the placement of a son or daughter with the employee for adoption.
 - 3.7.3 In order to care for the employee's spouse, child, parent, or dependent who has a serious health condition which keeps the employee from his/her regular work.
 - 3.7.3.1 By arrangement this leave may be taken intermittently, or part-time when medically necessary but scheduled so as not to unduly disrupt the operations of the employer.
 - 3.7.3.2 If an employee requests family leave to care for a family member he/she must provide certification by a health care provider indicating that 1) the family member has a serious health condition, 2) the date the serious health condition commenced and its probable duration, and 3) the medical facts regarding the serious health condition. Required forms shall be requested from the Human Resource Department.
 - 3.7.3.3 Failure to provide required certification to the Human Resource Department shall halt an employee's request for leave.
 - 3.7.4 When the birth or adoption is foreseeable or when planned treatments are known in advance, the employee shall provide the Human Resource Department with two (2) weeks written notice.
 - 3.7.5 Employees shall not accrue personal leave, vacation, or other benefits during unpaid Family Leave.
- 3.8 **Maternity/Paternity Leave:** The Parental Leave Act (WV Code 21-5D-1, et seq.) requires that the Board allow up to at least twelve (12) weeks of unpaid leave in any twelve (12) month period following the exhaustion of all annual personal leave.

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(Revised: 10/08/13)**

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- 3.8.1 An employee may request maternity/paternity leave for pregnancy, for convalescence after childbirth, or for adoptive or infant bonding for a period of up to one (1) year. This leave shall extend to either or both parents.
- 3.8.2 Required Medical Maternity Leave – Leave initiated when an employee does not request voluntary maternity leave but, in the opinion of the employee’s attending physician, is unable to continue her duties or when an employee is no longer carrying out her regular duties in a satisfactory manner. Such leave shall require the recommendation of the Superintendent and approval of the Board of Education. Employees may return to duty when the attending physician certifies in writing that the employee is able to resume regular duties.
- 3.9 **Military Leave of Absence:** Employees who are members of the National Guard or military reserve unit of the United States armed services shall be entitled to a leave of absence without loss of pay, status or efficiency rating, on the days during which they shall be engaged in drills, parades or other duty, during business hours ordered by proper authority, or for field training or active service of the state for a maximum period of thirty (30) days in any one (1) **calendar** year.
 - 3.9.1 The term “without loss of pay” means that the employee shall continue to receive his/her normal salary or compensation, notwithstanding the fact he or she may have received other compensation from federal or state sources during the same period.
 - 3.9.2 Employees on approved Military Leave that extends beyond thirty (30) days will not receive compensation from Mercer County Schools after 30 days.
 - 3.9.3 An employee who is deemed eligible to take Military Caregiver Leave may take up to twenty-six (26) work weeks of such leave during a single twelve (12) month period; however, the twenty-six (26) week limit shall include any other family medical leave taken during the same twelve (12) month period.
 - 3.9.3.1 An employee will be eligible when care is required for a covered service member in relationships listed in 2.10 who is a current member of the armed forces who is on the temporary disability retirement list or a veteran and has a serious injury or illness incurred in the line of active duty for which he or she is undergoing medical treatment, recuperation or therapy.

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- 3.9.4 Employees returning from Military Leave of less than thirty (30) days should return to work on the first regularly scheduled workday after release from the military.
- 3.9.5 Employees returning from Military Leave lasting from thirty-one (31) to one hundred-eighty (180) days must notify the Human Resource Department of their intention to return to work within fourteen (14) days after completing active service.
- 3.9.6 Employees on approved Military Leave greater than thirty (30) days but less than one hundred-eighty (180) school days, wishing to retain insurance coverage shall be required to pay the employees share of the premium by the 5th day of the month.
- 3.9.7 Employees on approved Military Leave longer than one (1) year (more than one hundred-eighty (180) school days) wishing to retain insurance coverage shall be required to pay the total insurance premium by the 5th of the month.
- 3.9.8 Employees on approved Military Leave up to and including one (1) year will be entitled to return to the position they held when the leave started, unless they were impacted by a reduction in force under provisions of §18A-2-2.
- 3.9.9 Employees on approved Military Leave for more than one (1) year will be entitled to a position appropriate to certification(s) or classification(s) they hold which become(s) available after their release date.
- 3.10 **Workers' Compensation:** Mercer County Schools will comply with the restricted use of personal leave benefits when used in conjunction with Workers' Compensation benefits as per WV Code §18A-4-10.
 - 3.10.1 An employee absent from his/her assignment because of an active Workers' Compensation claim shall be required to provide a written status report completed by his/her physician to his/her immediate supervisor at least once every forty-five (45) days. The report will summarize the employee's health status, and projected return to work.
 - 3.10.2 Before an employee can return to work under "light duty" he/she must submit a Request for Accommodations Form completed by his/her physician, with

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information regarding the employee's capabilities and limits, to the Human Resource Department.

- 3.10.3 Once an employee on a temporary Worker's Compensation Claim has been determined fit to resume his/her duties he/she must authorize his/her physician to complete the Certification of Health Care Provider for Employee's Serious Condition Form and submit it to the Human Resource Department.
- 3.10.4 Failure to submit or submission of incomplete forms may result in disciplinary action or possible termination of employment.
- 3.10.5 The employee shall resume job responsibilities within ten (10) days of his/her release or at the beginning of a new school term, whichever occurs first.
- 3.11 **Advance Study Leave:** An employee shall request a leave of absence, through the Human Resource Department, at least thirty (30) working days prior to the beginning of this leave.
 - 3.11.1 An employee must complete the appropriate Leave of Absence form and provide all required information, including expected benefits for the school district and students, to the Human Resource Director prior to Board of Education approval.
 - 3.11.2 An employee must provide verification of acceptance and enrollment, from the institution of higher education, as a full-time student unless he/she is in the final term of a program and will complete the degree without being classified as full-time.
 - 3.11.3 An employee's failure to maintain full-time status (unless in final semester prior to program completion) shall result in termination of the leave of absence.
 - 3.11.4 An employee must notify the Human Resource Department a minimum of ten (10) days prior to his/her return; however, the return may be postponed if it would cause a disruption for students or if less than fifteen (15) days remain in the semester.

3.12 General Criteria for Federal Family Medical Leave Act (FMLA):

3.12.1 Unpaid leave following the exhaustion of all his/her annual and personal leave, during any twelve (12) month period.

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3.12.2 To qualify, employees must have worked for Mercer County Schools for more than twelve (12) months and must have worked at least 1,250 hours during the previous year to qualify for Medical Leave and Family Leave.

4.0 Severability

Any conflict between this policy and state statute shall be resolved by following the statute.

If any portion of this policy or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this policy.

Authority: West Virginia Constitution, Article XII, §2, and WV Code §§ 18-5-1, 18-5-13, 18A-1-1, 18A-2-2a, 18A-4-10, 18A-4-10f, 21-5D-1 et. Seq.
The Family and Medical Leave Act (FMLA)

Source: Board of Education Minutes Source: Personnel Policy

Date(s): 1/24/95, 4/27/99, 6/22/99, 9/26/06, 7/25/85, 2/28/95, 9/26/00, 10/08/13

~~**CODES REMOVED WHICH WERE NOT RELATED TO THIS POLICY**~~

~~§§16-9A-4, 16-9A-9, _____ Tobacco use and sales
17A-1-1 _____ Motor vehicles
18-2-5, _____ Age of students entering
18-2-7b _____ Drug prevention
18-2-9 _____ Required courses
18-2-33 _____ Anti-hazing
18-2C-1 et seq _____ Harassment
18-16-1 _____ Anti-hazing
60A-1-101, _____ Definitions drug-related
60A-7-11a _____ Definitions weapons-related
61-2-15 _____ Assault on school employee
61-7-2 _____ Dangerous weapons
61-7-11a. _____ Possessing deadly weapon~~