

## **RULE 12 - EMPLOYEE LEAVE PLAN**

### **12.01 PURPOSE**

The purpose of this document is to outline the District's comprehensive plan for approved employee leaves of absence, and to set forth the policies for establishing employee leave practices. This document also outlines a part of the District's plan for compliance with the federal Family & Medical Leave Act (FMLA). It is the policy of the District to comply with the requirements of the FMLA and all other employee leave-related state and federal laws.

This plan applies to all classified employees, whether full or part time. Volunteers are not employees and, therefore, are not subject to the provisions of this policy.

### **12.02 AUTHORITY**

All forms of leave not specifically authorized by this plan are subject to approval by the Board of Directors.

### **12.03 EMPLOYEE LEAVE PLAN**

The Employee Leave Plan consists of eight (8) types of paid leave (Personal Leave, Family/Medical Leave, Bereavement Leave, Civic Duty Leave, Military Leave, Administrative Leave, Holiday Pay, and Pre-Holiday Leave), and one type of unpaid leave (Leave Without Pay). The Human Resources Department, in consultation with Appointing Authority, shall utilize current market data, market demand, the District's financial resources, and other pertinent factors as a basis for recommendations to the Board of Directors for changes and adjustments to the Employee Leave Plan deemed necessary to maintain a competitive position with respect to the labor market. Approval by the Board of Directors is required before implementation of any such changes and/or adjustments in the Employee Leave Plan.

### **12.04 PERSONAL LEAVE**

Personal Leave is accrued by all classified employees who are scheduled to work at least 50% full time, and may be used by an employee for any purpose with the Appointing Authority's approval at the discretion of the employee subject to the staffing needs of the department. Typical uses of Personal Leave include vacations; personal business meetings; and routine illnesses, and doctor or dentist appointments which are not an FMLA-qualifying event. (Personal Leave shall be construed consistent with all statutory provisions relating to "annual" or "vacation" leave.)

A. **Accrual Rates.** The following schedule shall apply to all classified employees who are in a pay status of 40 hours in a work week:

<b>MONTHS OF CREDITED SERVICE</b>	<b>HOURS PER PAY PERIOD</b>	<b>HOURS PER YEAR</b>
1-36 months	4.65	120.9
37-72 months	5.55	144.3
73-120 months	6.9	179.4

121-180 months	7.9	205.4
181-228 months	8.5	221.0
229 months plus	8.8	228.8

Eligible employees who are in a pay status of less than 40 hours per week shall accrue Personal Leave on a pro-rata basis of paid hours worked each pay period, based on the schedule above.

Examples:

1. An employee with 96 months of service who receives pay for 48 hours in a pay period, would accrue 4.14 hours (60% of 6.9 hours) for the two-week pay period. [48 hours divided by 80 hours = 60%]
2. An employee with 60 months of service who receives pay for 40 hours in a pay period would accrue 2.775 hours (50% of 5.55 hours) for the two-week pay period. [40 hours divided by 80 hours = 50%]
3. An employee with 144 months of service who receives pay for 32 hours in a pay period would accrue 3.16 hours (40% of 7.9 hours) for the two-week pay period. [32 hours divided by 80 hours = 40%]

Personal Leave will accrue during any approved absence with pay, but does not accrue during any absence without pay. A maximum of 240 hours may be carried from one calendar year to the next calendar year. Hours in excess of 240 hours at the end of each calendar year shall be converted to accrued Family/Medical Leave.

**B. Eligibility for use of Personal Leave:**

1. Initial probation and regular Classified employees are eligible to use Personal Leave Hours subject to the following requirements and restrictions:
  - a. If the need for Personal Leave is foreseeable, the employee must request and be granted approval prior to the use of Personal Leave Hours or follow such other procedure as are identified in departmental policy.
  - b. If the need for Personal Leave is unforeseeable, the employee or the employee's representative must notify the Appointing Authority, or other authorized person, of the employee's need for the leave as soon as practicable under the facts and circumstances of the particular case and obtain approval of the leave or follow such other procedure as set forth in departmental policies, procedures, or practices.
  - c. An employee may not use Personal Leave if the employee is receiving short term disability compensation.
2. Supervisors may send an employee home if the employee has appeared for work impaired, or develops an illness or condition while at work which, in the judgment of the supervisor, impairs the ability of the employee to be productive and/or which could jeopardize the health or physical safety of co-workers or the public. Any lost work time will be charged to the employee as Personal Leave if the employee has sufficient accruals.
3. At time of separation from District employment, all accrued Personal Leave Hours will be paid at the employee's current base rate of pay, as

defined in the Employee Compensation Plan. An employee who separates prior to the end of the first six (6) months of continuous employment will not be paid for accrued Personal Leave hours. Use of Personal Leave hours within the first six months of continuous employment should only be authorized when an absence is necessary due to the employee's illness, injury or for an appointment with a health care provider.

- C. **Verification.** If the need for Personal Leave was unforeseeable, the Appointing Authority may require that the employee submit substantiating evidence, including but not limited to a certificate from a licensed health care provider. If the Appointing Authority determines that the evidence is inadequate, the Appointing Authority may disapprove the use of Personal Leave.
- D. **Donation of Personal Leave:** An employee who accrues Personal Leave may donate accrued Personal Leave to another employee's balance of Family and Medical Leave to assist them with their own or an immediate family member's serious health condition.
1. An employee may use donated Personal Leave to satisfy the Short Term Disability exclusion period.
  2. The dollar ratio of donated Personal Leave to Medical/Family Leave will be adjusted proportionately to the salaries of the donor and the recipient.
  3. Upon receipt, the Human Resources Department will transfer all donated time to the recipient's Family/Medical Leave balance. Unused donated Family/Medical Leave remains the property of the recipient and will not be returned to the donor.
  4. To approve a donated leave, the Appointing Authority must:
    - a. Obtain a written request for the donation of leave, signed and dated by the employee.
    - b. Obtain from the employee documentation from a health care provider, which states that employee (or the employee's immediate family member) has a Serious Health Condition that is expected to last at least two (2) weeks; and
    - c. Submit a request for approval to receive donation of leave to the Human Resources Director stating that the recipient is eligible to use Family/Medical Leave; the employee has exhausted or will have exhausted all of his/her accrued Personal Leave and Family/Medical Leave before the anticipated return date of the employee; and that the leave for which the employee has requested donated leave hours constitutes a Serious Health Condition and will last for a total of at least two (2) weeks due to the same illness or injury.
  5. To discontinue a donation of leave authorization, the Appointing Authority must submit to the Human Resources Director a request to stop donations at least two (2) weeks prior to the requested end date.
  6. An employee who is receiving worker's compensation shall not be eligible to receive donated leave.

### **12.05 FAMILY/MEDICAL LEAVE**

Family/Medical Leave is a form of paid leave that is accrued by all regular employees who are scheduled to work at least 50% full-time. Family/Medical Leave may be used if

the employee has an FMLA-qualifying event, and can be used for the duration of the FMLA-qualifying event (or until accruals have been exhausted). (Family/Medical Leave shall be construed consistent with all statutory provisions relating to "sick" leave.) Family/Medical Leave may not be used for routine visits to a health care provider unless the visit is for a serious health condition. (Pre-natal care and continuing care for a chronic condition, such as asthma, are the most common instances where this is likely to occur.)

All accrued Family/Medical Leave may be used by an employee for medical leave. Family/Medical Leave may be used by the employee under such circumstances even if the employee's 12-week entitlement to leave under the FMLA has been exhausted. However, while the employee may remain on paid Family/Medical Leave, the position occupied by an employee on leave may, absent an accommodation under the Americans with Disabilities Act, be filled by the Appointing Authority if the employee has been absent for six or more consecutive months. If an existing, budgeted, position of a pay grade that is equal or lower than the employee's original position is available at the time the employee is able to return to work, and the employee meets the qualifications for the position, the Appointing Authority shall restore the employee to the available position at the position's budgeted level. The use of Family/Medical leave for a qualifying family leave purpose shall be limited to the employee's 12-week entitlement under the FMLA. A husband and wife (if both are employed by the District) may each use up to twelve (12) weeks of Family/Medical Leave within the twelve (12) months following the birth or placement of a child.

A. **Accrual Rates.** The following schedule shall apply to all classified employees who are in a pay status of 40 hours in a work week:

<b>MONTHS OF CREDITED SERVICE</b>	<b>HOURS PER PAY PERIOD</b>	<b>HOURS PER YEAR</b>
0-36 months	1.55	40.3
37-72 months	1.85	48.1
73 months plus	2.30	59.8

Employees who are in a pay status of less than 40 hours per week shall accrue Family/Medical Leave on a pro-rata basis of paid hours worked each pay period, based on the schedule above.

Examples:

1. An employee with twenty-four (24) months of service who receives pay for 48 hours in a pay period would accrue .93 Family/Medical Leave Hours (60% of 1.55 hours) for the two-week pay period. [48 hours divided by 80 hours = 60%]
2. An employee with sixty (60) months of service who receives pay for 40 hours in a pay period, would accrue .925 Family/Medical Leave Hours (50% of 1.85 hours) for the two-week pay period. [40 hours divided by 80 hours = 50%]

Family/Medical Leave Hours will accrue during any approved absence with pay but will not accrue during any absence without pay.

**B. Employee Eligibility for Use of Family/Medical Leave:**

An employee may use accrued Family/Medical Leave if each of the following conditions has been met:

1. The employee has worked for the District in a regular position for at least twelve (12) months; and,
2. The employee has been employed by the District for at least 1,250 hours of service during the twelve (12) month period immediately preceding the request for leave.
3. The employee is not receiving short term disability compensation.

**C. Procedures for Use of Family/Medical Leave during an Approved Qualifying Leave:**

1. If the final written approval of an FMLA-qualifying leave occurs before the leave of absence begins, the Appointing Authority shall require that:
  - a. The employee first uses any accrued Family/Medical Leave for the duration of the absence;
  - b. Once all of the employee's accrued Family/Medical Leave has been exhausted, the employee must use any accrued Personal Leave;
  - c. Once all of the employee's accrued Family/Medical Leave and Personal Leave have been exhausted, the employee may (at the employee's discretion) use accrued compensatory time;
  - d. All time remaining during the employee's FMLA-qualifying leave after the employee has exhausted all Family/Medical Leave, Personal Leave, and compensatory time will be treated as Leave Without Pay.
2. If the final written approval of an FMLA-qualifying leave occurs after the leave of absence begins, the Appointing Authority may (in addition to the above) require that the employee substitute accrued Family/Medical Leave Hours for any Personal Leave Hours and/or Leave Without Pay which the employee used prior to the final written approval of the leave as an FMLA-qualifying leave.

**D. Relationship of the Employee Leave Plan to State Workers' Compensation Laws.** An employee may, if eligible, simultaneously be on an FMLA-qualifying leave and a leave under Arizona's workers' compensation laws. If the work-injury related absence and an employee's FMLA-qualifying leave run concurrently, the employee may elect to receive and keep payments received for workers' compensation. As an alternative, an employee may in addition elect to use accrued Family/Medical Leave or Personal Leave to make up the net difference between the compensation paid by the workers' compensation insurer and the employee's gross pay. The employee may do so only if the employee has signed the Workers' Compensation Supplemental Pay Agreement and if the employee has enough combined accrued Personal Leave and/or Family/Medical Leave (and/or compensatory time if employee wishes) to make up the difference for each 80 hour pay period.

**E. Relationship of the Employee Leave Plan to the Americans with Disabilities Act of 1990 (ADA).** Any leave approved under the Employee Leave Plan may also simultaneously constitute a reasonable accommodation for an employee who is a qualified individual with a disability under the ADA. Additional reasonable accommodations may be required upon return from an approved leave under the Employee Leave Plan.

- F. **Verification of need for Family/Medical Leave.** An Appointing Authority shall approve the use of Family/Medical Leave only after having ascertained that the absence was for an authorized reason. The Appointing Authority may require the employee to submit substantiating evidence including, but not limited to, a certificate from a health care provider. If the Appointing Authority does not consider the evidence adequate, the Appointing Authority may request that the employee attend a work fitness examination. In the event that the employee disagrees with the findings of the work fitness examination, the Appointing Authority and employee may jointly designate a third health care provider to perform an independent medical examination. The result of the independent medical examination shall be conclusive. If, at any stage the employee's request to use Family/Medical Leave is disapproved, the Appointing Authority shall charge the time taken to Personal Leave or Leave Without Pay. Both the work fitness examination and independent medical examination shall be at the Appointing Authority's expense.

## **12.06 HOLIDAY PAY**

- A. **Legal Holidays.** Legal Holidays to be observed with pay are: New Year's Day, Martin Luther King, Jr./Civil Rights Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. When a holiday falls on a Sunday, it will be observed on the following Monday; when a holiday falls on a Saturday, it will be observed on the preceding Friday.
1. **Use of Holiday Pay:** Classified employees who are not required to work on a Legal Holiday shall be compensated for a Legal Holiday as follows:
    - a. Employees with minimum scheduled hours of equal to or more than 32 hours per week shall receive eight (8) hours of compensation.
    - b. Employees with minimum scheduled hours of equal to or more than 32 hours per week who are working an alternative schedule, shall receive eight (8) hours pay for the observed holiday. At the discretion of their Appointing Authority, employees may adjust their work schedules to meet their 40 hours during the same work week, use Personal Leave, or take time off without pay to make up the difference between the eight (8) hours of pay for the holiday and their regularly scheduled hours.
    - c. Employees with minimum scheduled hours of less than 32 hours per week but at least 20 hours per week shall receive a pro-rated amount for the holiday based on their regularly scheduled hours.
    - d. Employees with minimum scheduled hours of less than 20 hours per week shall not be eligible for holiday pay.
    - e. Personal Leave and Family/Medical Leave will not be deducted from an employee's accrued leave balance for a Legal Holiday which occurs while an employee is using Personal Leave or Family/Medical Leave Hours.
    - f. Employees must be in a pay status (either time worked, Personal Leave, Compensatory Time or Family/Medical Leave) for at least one hour of the scheduled day before and after a Legal Holiday to receive pay for the Legal Holiday. An employee who is on an unpaid leave of absence shall not be compensated for a Legal Holiday.
  2. **Working on Holidays:** Employees who are required by their Appointing Authority to work on a Legal Holiday, regardless of the day of the week on which such Legal Holiday falls, shall be compensated for the Legal Holiday worked by:
    - a. Pay for the Legal Holiday (equal to the numbers of hours actually worked up to a total of eight [8] hours plus pay for the hours actually worked (holiday pay does not count as time worked for the purpose of calculating whether the employee has worked more than 40 hours), or;
    - b. Pay for the Legal Holiday (equal to the number of hours actually worked up to a total of eight [8] hours plus equal time off (hour for hour actually worked) from regularly-scheduled hours with pay within the same pay period in which the Legal Holiday occurs.

## **12.07 OTHER AUTHORIZED LEAVES OF ABSENCE**

### **A. Bereavement Leave**

With approval of the Appointing Authority, a classified employee may use paid bereavement leave for each occurrence in the case of a death of a family member. For purposes of Bereavement Leave, "family member" includes an employee's spouse/domestic partner; mother; father; sister; brother; son or daughter (including adult children); parents in-law, sisters and brothers in-law; aunts; uncles; grandparents; grandchildren; and custodial person for a period of up to 24 working hours per instance or up to 40 working hours per instance if out-of-state travel is required without deduction of Personal or Family/Medical Leave. The Appointing Authority may require documentation of the need for Bereavement Leave.

### **B. Civic Duty Leave**

A classified employee may use civic duty leave with pay for any of the following (except as specifically set forth herein):

1. Absence for jury duty shall be permitted with pay when an employee is called to serve on any jury duty (municipal, county, state or federal) during regularly-scheduled work hours.
  - a. Employees must submit leave slips notifying their supervisors of the summons in advance of the performance of this duty. Employee's regular pay will be reduced by any jury pay amount, excluding mileage reimbursement, received from the court. Employees may be required to submit verification of their jury duty to their Appointing Authority.
  - b. Employees on an alternative work schedule (e.g., 4 days/10 hours) may be paid for all regularly-scheduled work hours during which they were actually on jury duty.
  - c. When an employee summoned for jury duty is regularly assigned to work on a second or third shift, the supervisor must alter the employee's work schedule to allow the employee to perform the jury duty.
  - d. An employee on jury duty during regularly scheduled time off, on Personal Leave, or leave without pay, may keep any payment for jury duty during that time.
2. Absence with pay for witness duty shall be permitted for an employee who is subpoenaed by, and to appear on behalf of, any governmental entity as a witness in conjunction with his or her District job duties during regular work hours. Employees must notify their supervisors of the subpoena in advance of the performance of this duty. If the subpoena is due to any other circumstance, the employee shall not be entitled to civic duty leave with pay but may use Personal Leave or leave without pay, if written approval has been obtained.
3. Absence with pay for voting of up to two (2) hours of work time, at the beginning or end of a shift, may be granted when an employee's scheduled shift does not allow a two (2) consecutive hour period in which to vote. The Appointing Authority may require evidence of eligibility to vote prior to an approval for the time off.
4. An Appointing Authority may permit an employee to be absent with pay for the purpose of engaging in the performance of a District-sponsored

community service program that is not substantially similar to the functions of the employee's position with the District. An employee's involvement or participation in the District-sponsored community service program must be on a voluntary basis.

**C. Military Leave**

Short and long term military leave shall be granted in accordance with applicable state and federal law and may be used as set forth in the District Administrative Manual. (See generally, A.R.S. § 26-166, et seq., and A.R.S. § 38-610). Restoration to a District position following military service shall likewise be in accordance with state and federal law.

**D. Administrative Leave With Pay**

Administrative leave with pay shall be granted to employees under the following circumstances:

1. If authorized by the Chief Executive Officer for emergency situations.
2. If authorized via a declaration by the Board of Directors or the Governor of the State of Arizona that a state of emergency, disaster or grief exists.
3. When the Appointing Authority determines that an employee should be removed from the workplace pending an administrative or internal investigation.
4. Pending a work fitness exam, or where the Appointing Authority has reason to believe the employee is a direct threat to self or others, or where significant loss or property is at risk.

**E. Pre-Holiday Leave:** An Appointing Authority may permit classified and unclassified employees, excluding temporary employees, to take a combined total of up to eight (8) hours of "Pre-Holiday" administrative leave with pay on the work days prior to December 25<sup>th</sup> and January 1<sup>st</sup> without deduction of Personal or Family/Medical Leave.

1. Pre-Holiday Leave is available only when December 24<sup>th</sup> and December 31<sup>st</sup> is a scheduled workday for the employee.
2. The Appointing Authority shall exercise this discretion only where the department's workload permits, and on a fair and equitable basis. The Appointing Authority shall ensure that adequate telephone, emergency, and customer service coverage is maintained at all times. Pre-Holiday time shall be at the sole discretion of the Appointing Authority.
3. Pre-Holiday Leave is to be used only on December 24<sup>th</sup> and December 31<sup>st</sup>. If Pre-Holiday Leave is available (E.1) and authorized (E.2) but employee cannot use leave on December 24<sup>th</sup> and/or January 1<sup>st</sup>, the Appointing Authority may pre-approve use of Pre-Holiday Leave between September 1<sup>st</sup> and March 1<sup>st</sup>.
4. Pre-Holiday Leave is not subject to transfer or accrual.
5. Pre-Holiday Leave may be used in combination with personal leave subject to the Appointing Authority approval.
6. Employees with a minimum of less than 40 scheduled hours per week will be paid for Pre-Holiday time on a pro-rated basis.

**F. Leave Without Pay**

Leaves of absence without pay of up to six (6) months may be granted, in writing, at the discretion of the Appointing Authority, to classified employees. The

Appointing Authority must submit a Personnel Action Form to the Human Resources Department when an employee is placed on Leave Without Pay of more than a full pay period. This would include anytime an employee's Personal Leave and Family/Medical Leave combined accrual balances fall below or are less than eight (8) hours and for any period which extends for a full pay period or more.

1. If the Leave Without Pay is the result of an FMLA-qualifying condition and the employee has not exhausted the amount of leave permitted under the FMLA, the position occupied by an employee on leave must remain unfilled. Any exceptions to this provision must be approved by the Human Resources Director, in writing, prior to placing another regular status employee in the position. The Appointing Authority may hire a temporary status employee to replace an employee on leave without pay.
2. If the Leave Without Pay is not the result of an FMLA-qualifying condition or if the employee has exhausted the amount of leave permitted under the FMLA, the position occupied by an employee on leave may, absent an accommodation under the Americans with Disabilities Act, be filled by the Appointing Authority. However, if a position of equal or lower pay grade (to that of the employee) is available at the time the employee is able to return to work, and the employee meets the qualifications for the position, the Appointing Authority shall restore the employee to the position. The Appointing Authority may hire a temporary status employee to replace an employee on leave without pay.
3. Except as noted with respect to Holiday Pay, all accrued, available, paid leave must be exhausted before an employee may request Leave Without Pay.
4. An employee's right to return to a position in the District service from an authorized non-FMLA leave without pay shall be conditioned upon the availability of a position for which the employee meets the qualifications and sufficient appropriation or authorization of funds. The employee shall not accrue Personal or Family/Medical Leave during Leave Without Pay.
5. Absent written approval from the Appointing Authority, an employee may not elect to substitute Leave Without Pay if the employee has accrued paid leave available for use.

**G. Special Appointment**

A regular employee may accept appointment to a non-elective unclassified position with the following conditions:

1. If the unclassified position does not accrue Personal Leave or Family/Medical Leave, the accrued Personal Leave Hours will be paid at the time of appointment to the unclassified position. Any Family/Medical Leave will be held inactive until the employee resigns or returns to an accruing position.
2. An employee's ability to return to a position in the classified service following a Special Appointment shall be at the discretion of the Appointing Authority and shall be conditioned upon the Appointing Authority's approval, the availability of a position for which the employee meets the qualifications, and the existence of a sufficient appropriation or authorization of funds. The employee shall have all Family/Medical accruals reinstated following return from the Special Appointment.

### **12.08 REINSTATEMENT**

An employee who successfully completed initial probation and has separated from District service in good standing and returns to District service within one year of separation shall be entitled to reinstatement of all accrued Family/Medical Leave which was forfeited at the time of separation. In addition, employees who have been separated from service as a result of a reduction in force and are rehired within one year into a position which accrues leave shall be awarded a leave accrual rate equal to that attained at the time of separation from service even if they have withdrawn their retirement contributions.