

## Leave and Absence Policy

### 1.0 Purpose:

Wirt County Schools recognizes the following to be used in the administration of leave, including vacation leave by eligible employees, and absences of all employees.

### 2.0 Definitions:

- 2.1 **Dock day** means a work day on which the employee is absent from work and for which the employee: a) has no remaining paid leave to cover said absence, or b) has requested that he/she not be paid and that his/her accrued paid leave balance not be debited for that missed day.
- 2.2 **Eligible Employee** – Personnel employed full-time who are executed a contract for a period of 261 days.
- 2.3 For the purpose of this policy, the term **“immediate family”** shall mean an employee’s husband, wife, son, daughter, mother, father, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, and grandchild.
- 2.4 **Vacation** – Benefit earned that allows an eligible 261 day employee to be absent from work and still receive compensation.

### 3.0 Procedures:

#### 3.1 Paid Personal Leave

Pursuant to W. Va. Code 18A-4-10, the Board of Education provides regular full-time employees with one and one-half (1 1/2) days of paid personal leave for each month of regular employment. Unused leave shall be accumulated and is transferable within the State of West Virginia. Compliance with the policy is required for the exercise of paid personal leave. Any day or days utilized for paid personal leave shall be deducted from the employee’s accumulated paid personal leave balance.

#### 3.2 Paid Personal Leave Due to Accident, Sickness, Family Illness or Death in Family

A regular full-time employee who 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, or other cause authorized or approved, in advance, by the Board, shall be paid the full salary from his/her regular budgeted salary appropriations during the period which such employee is absent, but not to exceed the total amount of leave to which such employee is entitled. For consecutive absences of more than three days, the Board reserves the right to request a medical excuse.

#### 3.3 Leave Without Regard to Cause

A regular full-time employee shall be permitted four days of personal leave annually, not to exceed the total amount of leave to which such employee is entitled, which may be taken without regard to the cause for the absence, except that personal leave without cause may not be taken on consecutive work days unless authorized or approved by the employee's principal or immediate supervisor, as the case may be: Provided, however, that notice of such leave day shall be given to the employee's principal or immediate supervisor, as the case may be, at least twenty-four hours in advance, except that in the case of sudden and unexpected circumstances, such notice shall be given as soon as reasonably practicable; however, the use

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of such day may be denied if, at the time notice is given, either fifteen percent of the employees or three employees, whichever is greater, under the supervision of the principal or immediate supervisor, as the case may be, have previously notified their principal or immediate supervisor of their intention to use that day for such leave:

Provided further, that such leave shall not be used in connection with a concerted work stoppage or strike. Where the cause for leave had its origin prior to the beginning of the employment term, the employee shall be paid for time lost after the start of the employment term. Reference: West Virginia Code 18A-4-10

Employees are permitted to carryforward a total of two personal leave days without cause into the next fiscal year. Any personal leave days without cause that remain at the end of the fiscal year in excess of the permitted carryover of two will be added to the personal leave balance with cause (sick days).

**3.4 Other Leave/Dock Days**

- 3.4.1** Employees shall not be absent from their assigned duties beyond their approved earned leave days except as authorized by the Superintendent or designated representative. A maximum of five (5) days without pay (Dock) per school year may be approved for vacation purposes, educational trips, or any other absence which may not be covered in this policy.
- 3.4.2** Employees shall not be permitted to exercise a dock day unless he/she has first submitted a prior written request to exercise a dock day. Such prior written requests shall be addressed and submitted to the Superintendent or his/her designee no later than 12:00 noon on the day before the proposed use of the dock day. Requests for permission to exercise a dock day submitted on or after the day on which the employee has actually exercised a dock day shall not be an approved absence. Extraordinary circumstances, of an emergency nature, may excuse the failure of the employee to obtain prior permission in accordance with this section.
- 3.4.3** The Superintendent may approve up to a maximum of five dock days total per employee per school year for vacation purposes, educational trips, or any other reasonable cause approved by the Superintendent which is not otherwise covered by this policy.

**3.5 Professional Paid Leave for Meetings and Conferences**

- 3.5.1** The Board of Education encourages its employees to participate in and become leaders in the field of education.
- 3.5.2** Professional educators serving as mentor teachers, serving on state and county professional staff development councils, serving on school curriculum teams, and serving on professional support teams shall be granted professional paid time off if required for performance of their duties during the instructional day or extra duty compensation if required at other times and for reimbursement for necessary expenses

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actually incurred in attending meetings of the bodies upon which they serve upon. To avoid interruption of instruction, the Board of Education shall fund the payment of substitute professionals, as needed, to cover the regular duties of the professional employee who has been approved to be away from work under this section.

- 3.5.3** The Board of Education may grant professional employees paid professional leave to attend other pre-approved education meetings and conferences, at its discretion. Furthermore, the Board is authorized to pay part or all of such employee's reasonable and necessary expenses, as approved by the Superintendent.
- 3.5.4** Employees desiring to be excused from their regular duties to attend an educational meeting or conference must first make application to their immediate supervisor. All such requests must be made in writing. Supervisors and Principals who approve these requests must sign and forward them to the Superintendent for his/her consideration.
- 3.5.5** The Superintendent may request that a professional employee attend a particular professional or educational meeting. If the employee agrees to do so, his/her attendance at such meeting shall be deemed to be in the best interest of the school system and shall be considered an integral part of the employee's employment. The employee shall receive paid professional leave and all reasonable and necessary expenses for his/her attendance shall be paid by the Board of Education, subject to the approval of the Superintendent.

**3.6 Vacation Leave**

- 3.6.1** Vacation leave days will be available for an eligible employee for usage at the beginning of the fiscal year. If an employee vacates a position entitled to vacation prior to June 30<sup>th</sup>, the days accrued will be prorated to reflect the number of days earned.
- 3.6.2** Upon separation, payment for any vacation leave days used but not earned will be refunded to the Board.
- 3.6.3** Unused vacation leave days at the end of any fiscal year may be carried over to the subsequent year, not to exceed an accumulated balance of 30 days.
- 3.6.4** All vacation leave must be approved by the employee's immediate supervisor.
- 3.6.5** Upon termination by an employee, any unused, earned vacation days will be transferred and verified as personal leave to the new employer.
- 3.6.6** Vacation leave shall be earned based on years of experience as reflected in the payroll records.
  - 3.6.6.1 0 to 1 year – 5 days annually
  - 3.6.6.2 2 to 4 years-10 days annually
  - 3.6.6.3 5 to 9 years-15 days annually
  - 3.6.6.4 10 or more years-20 days annually

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### 3.7 Discipline for Violations of this Policy

- 3.7.1** Violations of the dock days policy shall constitute insubordination and/or willful neglect of duty within the meaning of W. Va. Code §18A-2-8.
- Employees violating this policy are subject to disciplinary action up to and including unpaid suspensions and termination of employment.
- 3.7.2** Any staff member who is willfully absent from his/her duties without approved leave in compliance with this policy may be subject to disciplinary action, up to and including termination of his/her employment contract.
- 3.7.3** Any employee who uses or seeks to use paid or unpaid leave time and submits false or misleading information in connection therewith shall be subject to disciplinary action up to and including the unpaid suspension and/or termination of his/her employment.

### 3.8 Absences

- 3.8.1** Employees are responsible for learning how to operate and interact with the Board's internet-based absence reporting and substitute assignment system (currently PowerSchool SmartFind Express) to report all absences, the reasons for the absence(s), and any related special instructions. The administration will provide training to all new employees to facilitate their use of this system.
- 3.8.2** Regular service employees who enter an absence into the system and later, after a substitute service employee has been assigned to cover the reported absence, determine that they must be absent for one or more additional days of work MUST contact their supervisors to report the additional day (s) of absence rather than entering a new absence into the system. This is necessary because service substitutes have the right to remain in a substitute position until the return of the regular employee, absent a voluntary break in service. Entering a new absence into the system in this situation will cause the system to contact a new service substitute and will interfere with the right of the initial substitute to remain in the assignment.
- 3.8.3** Professional employees, or the employee's immediate supervisor, can make a request for a substitute in their classroom. Professional employees cannot prearrange substitute coverage with persons who are related or living directly in the same household.
- 3.8.4 Absence Related to Jury Duty** Any employee required to serve on any jury shall be relieved of the usually assigned duty for the period necessitated by such service and shall be compensated by the Board of Education in an amount equal to the difference between the jury fee and the regular salary of the involved employee.

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(W. Va. Code 18A-5-3)

- 3.8.5 Absence Related to Court Summons/Subpoena** Any employee who is subpoenaed to appear as a witness but not as a defendant in any criminal proceeding in any court of law may make such appearance without any loss of pay. Absent proof that a child custody proceeding is criminal, an employee who is subpoenaed to testify in the proceeding is not entitled to do so without loss of pay or personal leave. The Board of Education shall pay to such employee the difference between the witness fee, exclusive of travel allowances, payable for such appearance by the court and the amount of salary due to the person for the time such employee is absent from his/her employment by reason of answering such subpoena.(W. Va. Code 18A-5-3a)

### 3.9 Unpaid Leaves of Absence

- 3.9.1** Upon written request, the Board of Education may grant a leave of absence to a regular employee holding a continuing contract for not more than one (1) year and not less than one (1) semester, or the remaining portion thereof, as explained below.
- 3.9.2** In accordance with West Virginia Code 18A-2-2a, any employee who is returning from an approved leave of absence that extended for a period of less than one year maintains the right to be restored to the same assignment of position or duties held prior to the approved leave of absence. Such employee shall retain all seniority, rights and privileges which were accrued at the time of the approved leave of absence, and shall have all rights and privileges generally accorded employees.
- 3.9.3** Requests for unpaid leaves of absence under this section for reasons other than pregnancy, childbirth, or adoptive or infant bonding shall be denied.
- 3.9.4 All Parental Leave Act Time Designated as FMLA Leave** All leave time exercised by any employee under the Parental Leave Act is hereby designated as leave time under the Family and Medical Leave Act.

### 3.10 Unpaid Leaves of Absence for Pregnancy, Childbirth, or Adoptive or Infant Bonding

- 3.10.1** An employee shall notify the county board at least ten working days prior to beginning a leave of absence for purposes of pregnancy, childbirth or adoptive or infant bonding unless the need for the leave time was unforeseeable in which case the employee shall notify the county board as quickly as practicable. The county board shall approve such leave of absence for any employee who requests an extended leave of absence without pay for any period of time not exceeding one year for the purpose of pregnancy childbirth or adoptive or infant bonding. An employee shall not be required to use accumulated annual leave or sick leave prior to taking an extended leave of absence pursuant to W. Va. Code 18A-2-2a for the purpose of pregnancy childbirth or adoptive or infant bonding.

Reference: West Virginia Code 18A-2-2a(b), WCBOE Policy D-16 FMLA and Military

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#### **3.11 Repayment of Leave Benefit**

- 3.11.1** When an employee or former employee has exercised paid leave which he/she has not yet earned by his/her service to the Board, the Board authorizes the Administration to pursue all reasonable legal remedies to recoup the value of the employee's use of said unearned leave. For example, if an employee were to use an entire year's worth of paid leave in September and then quit working for the Board in November, the Administration would be authorized to pursue the recoupment of the value of that unearned leave time. Reference: W. Va. Code 18A-4-10(a)(5)

#### **4.0 Coordination with Other Policy**

##### **4.1 Family and Medical Leave Act**

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

##### **4.2 No Stacking of Unpaid Leave Time**

When an employee exercises 12 weeks or more of unpaid leave time during any school year pursuant to W. Va. Code 18A-2-2a for the purpose of pregnancy, childbirth, or adoptive or infant bonding, that same unpaid leave time shall constitute all of the unpaid leave time to which the employee is entitled under the Family and Medical Leave Act and/or the Parent Leave Act (W. Va. Code 21-5D-1 et seq) for any 12-month period.

##### **4.3 Uniformed Services Employment and Reemployment Rights Act (USERRA)**

Nothing in this policy shall be interpreted to conflict with the federal Uniformed Services Employment and Reemployment Rights Act.

##### **4.4 Paid Leave for Members of the National Guard or Armed Forces Reserves for Drills, Parades, Active Duty, Etc.**

Nothing in this policy shall be interpreted to conflict with W. Va. Code 15-1F-1 et seq.

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### 4.5 Release Time for Employees Serving in the Legislature

Nothing in this policy shall be interpreted to conflict with W. Va. Code 18A-2-2(d) with regard to employees who are serving as members of the Legislature.

### 5.0 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. Changes or updates to legislative items requiring compliance will be included as needed by decision of the Superintendent.

### REVIEW SCHEDULE:

This policy shall be reviewed in accordance with the policy review schedule published by the Superintendent.

**Authority:** West Virginia Constitution, Article XII, §2, and WV Code §5-16-24, 15-1F-1, 18A2-2a, 18A-4-7b, 18A-4-10, 18A-4-10f, 18A-5-3, 18A-5-3a, 21-5D-1 et. Seq. **WV**

#### **Ethics Opinion**

**Replaces:** GCRH-R Vacation Policy, August 10, 1998, GBRE-R August 10, 1998, Educational Meetings; GAD-R Revised December 14, 1998, Professional Development Opportunities; G-14 Leave Policy, January 2016.

**Approved:** 6/30/16; 08/27/19

**Reviewed:** 8/05/19