

## **HUMAN RESOURCES**

### **Leave and Leaves of Absence**

#### **Sick Leave**

This regulation supersedes Regulation 4819.4.

#### **I. PURPOSE**

To establish guidelines for crediting, using, authorizing, and reporting sick leave and for paying or transferring unused sick leave for eligible employees.

#### **II. SUMMARY OF CHANGES SINCE LAST PUBLICATION**

- A. Section I. adds the word authorizing.
- B. Section III.A. clarifies who is eligible to earn sick leave.
- C. Section IV. clarifies who is considered an immediate family member.
- D. Section V. clarifies the time frame in which sick leave is earned.
- E. Section VII.A. clarifies the number of sick leave days to be used within a 40-workday period if not on an approved FMLA.
- F. Section VII.A. refers back to section VI.A.
- G. Section VII.B.6. adds use of short-term disability benefits for an organ donor.
- H. Section VIII. clarifies special provisions applied to use of sick leave.
- I. Section VIII.B. replaces Short-Term Disability with Integrated Disability Management Program, clarifies when LWOP (leave without pay) may be used, and clarifies when a request form for an unpaid LOA (leave of absence) is due.
- J. Section VIII.B.1. clarifies the maximum number of sick leave and/or annual leave days available upon a short-term disability claim being made.
- K. Section VIII.D. clarifies the procedure to transfer sick leave upon termination from FCPS to another school system and the procedure to convert the balance to retirement service credit or to the Fairfax County government.
- L. Section IX.A. clarifies who informs the employee of the appropriate person to contact if an employee must be absent.

- M. Section IX.D. adds the words Integrated Disability Management section.
- N. Section X. clarifies the procedures to report sick leave absences and/or personal leave.
- O. Section XI. clarifies the use of unused sick leave upon termination from FCPS.

### III. ELIGIBLE EMPLOYEES

- A. Those employees eligible to earn sick leave are:
  - Employees assigned a specific number of contract days or workdays.
  - Employees hired and assigned to a temporary, hourly position before July 1, 1996, and who have not had a subsequent break in employment.
- B. Temporary hourly employees who are currently eligible to earn sick leave will continue to do so until such time as the employee does one of the following:
  1. Terminates employment with Fairfax County Public Schools (FCPS).
  2. Is terminated by FCPS for not having worked or having been in a paid status within a consecutive 12-month period.
  3. Moves into a position with a specific number of contract days or workdays, regardless of the contract length or percentage of employment.

Unused sick leave hours associated with the temporary hourly position will be available for use on any other eligible position held by the employee.
- C. An employee who held both a contracted part-time position and a temporary hourly position as of June 30, 1999, may continue to earn sick leave on the temporary hourly position. Such an employee may continue to earn sick leave on the temporary hourly position only until such time that he or she moves to a full-time position. Unused sick leave hours associated with the temporary hourly position will be available for use on any other eligible position held by the employee.
- D. Only employees eligible to earn sick leave on a temporary hourly position may be eligible to use leave on a temporary hourly position.

### IV. IMMEDIATE FAMILY

Employees may use sick leave for personal illness or injury and for the care of immediate family members, which include father, mother, brother, sister, husband, wife, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, foster parent, foster child, stepparent, stepchild, legal guardian, child for whom

employee is legal guardian, grandparent, grandchild, aunt, uncle, nephew, niece, or member of one's own household regardless of relationship.

**V. EARNINGS RATE**

A. Employees who are paid monthly and who do not work year round shall earn sick leave at the same standard rate of .0632 for eligible hours worked. This will result in earning approximately the following number of days, based on scheduled workdays:

<u>Workdays</u>	<u>Days Credited</u>
208 and above	13
190–203	12
183–188	11

B. Employees who are paid monthly and who work year round shall earn sick leave at a rate of .0538 for eligible hours worked, or approximately 14 days per year.

C. Employees who are paid biweekly and who have assigned workdays shall earn sick leave at the rate of .0538 hours of leave for eligible hours worked (maximum of 4.304 hours per two-week pay period).

**VI. CREDITING AND ACCUMULATION**

A. An employee shall be credited sick leave with the same frequency as he or she is paid, either monthly or biweekly.

Sick leave shall be earned and credited as long as the employee is in a paid status. Short-term disability and workers' compensation shall not be considered paid statuses.

B. There shall be no limit on the accumulation of sick leave from one year to the next.

**VII. USE**

A. Use of Leave

An employee shall not use any more than 20 sick leave (LS) workdays for personal illness or injury over the course of 40 workdays unless the work site has received approval from the Disability and Leaves unit of approved FMLA.

A less-than-12-month employee paid monthly shall be eligible to use sick leave hours not yet earned in the current contract year, provided he or she reports to work on the first day of his or her contract. A less-than-12-month employee paid monthly who does not report to work on the first day of his or her contract will only be eligible to use the sick leave balance that existed prior to the start of the current year's contract.

A less-than-12-month employee who remains in a paid status (pursuant to section VI.A.) for the entire contract year will have access to the maximum hours to be earned during the contract year. If a less-than-12-month employee enters a nonpaid status at any point during the contract year, the maximum sick leave entitlement shall be adjusted accordingly, and the employee will have access only to those sick leave hours that were earned before entering the nonpaid status. When a less-than-12-month employee returns from a nonpaid status to a paid status, he or she will have access to the remaining leave hours that could be potentially earned during the current contract year.

For biweekly paid employees and 12-month employees paid monthly, leave is not available for use until the pay period after it is earned.

B. Leave may be used by all eligible personnel as follows:

1. Personal illness, injury (including work related), quarantine, or temporary physical or mental incapacity. (Childbirth shall be treated as a temporary physical incapacity.)
2. Medical, dental, or optical appointments for self or members of immediate family.
3. Illness, injury, quarantine, or temporary physical or mental incapacity within the immediate family.
4. Exposure to a contagious disease when attendance at work might jeopardize the health of others or self.
5. Bereavement leave of up to five days for immediate family members upon request. Extensions of this leave may be made at the discretion of the employee's program manager.
6. Eligible personnel may request short-term disability benefits to serve as organ donors. Refer to the current version of Regulation 4760.

C. Summer School Employment

Less-than-12-month teacher-scale, instructional assistant-scale, unified salary scale, and food service personnel who work in summer school or other FCPS summer programs are eligible to use up to two days of sick leave accumulated during the regular school year for medical emergency-related reasons and/or bereavement only. (Refer to the current version of Regulation 4235.)

**VIII. SPECIAL PROVISIONS**

The following special provisions apply to the use of sick leave, which will be modified as necessary for employees using sick leave under the Family Medical Leave Act (FMLA).

A. Doctor's Certificate or Examination

The School Board reserves the right to require a doctor's certificate at any time and usually will do so in every case when the illness, injury, or physical or mental incapacity exceeds five days. The Board also reserves the right to require an employee to be examined by a doctor of the Board's choosing at the Board's expense.

B. Sick Leave and the Integrated Disability Management Program

1. An employee may have access to the maximum of 20 days of accumulated sick leave and/or annual leave as an STD elimination period and must participate in the STD program for an illness that requires such absence from the workplace.
2. Available sick leave must be depleted before any period of leave without pay for medical reasons is approved. Any available paid leave must be depleted before using leave without pay (LWOP) associated with the IDM program (5 workdays for workers' compensation or 20 workdays for short-term disability).
3. When an employee has depleted all sick leave and short-term disability benefits, and does not qualify, for whatever reason, for long-term disability benefits, he or she must return to work or apply for an unpaid long-term leave of absence (LOA). The employee shall submit a statement from an attending licensed physician or psychiatrist, which shall list the medical condition that is preventing the employee from returning to work, the treatment plan, and when the employee is expected to return to work. The request form (HR-136) for an unpaid LOA can be found on the FCPS web site. The request form should be signed by the principal or program manager as acknowledgement two weeks prior to short-term disability benefits ending and, along with the medical documentation, must be returned to the Disability and Leaves section, Office of Benefit Services.
4. Use of leave without pay, as described above, must be approved in advance by the employee's program manager. Refer to the current version of Regulation 4818 and 4835 for the appropriate procedures.

C. Sick Leave Used as Personal Leave

A less-than-12-month employee may request the use of up to three days of his or her sick leave per year as personal leave during his or her normal contract and/or work year. This leave request is subject to approval by the program manager or designee contingent upon whether the absence of the employee on the dates for which the leave is requested can be accommodated without unacceptable disruption of the program.

D. Reciprocity of Sick Leave

1. A terminated FCPS employee may transfer any accumulated sick leave to another Virginia public school system. The maximum amount to be transferred will be determined by the receiving school system. The request must be made in writing within 12 months of separation.
2. Under no circumstances can an employee transfer sick leave that has already been converted to retirement service credit either under the Educational Employees' Supplementary Retirement System (ERFC) or the Fairfax County Employees' Retirement System (FCERS).
3. An employee may make arrangements to transfer a portion of sick leave to another Virginia public school system and convert the balance to retirement service credit. The request must be made in writing prior to the employee's separation date from FCPS.
4. FCPS will accept no more than 60 days of transferred sick leave from another public school system in Virginia under the following conditions:
  - a. separation from the other school division occurred within the 12-month period prior to employment with FCPS.
  - b. the request is made in writing by the employee within the 12-month period after separation from the other school division.
5. An unlimited number of accumulated sick leave days is reciprocal between Fairfax County Public Schools and Fairfax County government and may be transferred between entities if:
  - a. both positions are eligible to earn sick leave.
  - b. the employee has resigned from one of the positions.
  - c. the employee begins employment with one entity immediately following his or her resignation from the other.
  - d. the request for transfer of leave occurs within one month of termination from FCPS or Fairfax County government.
  - e. the sick leave has not already been converted to retirement service credit.
6. Accumulated sick leave is an employee benefit and is not reciprocal between employees.

**IX. REPORTING**

- A. Each program manager or designee shall advise all employees of the appropriate administrator or supervisor to be contacted if an employee must be absent.
- B. An employee shall notify the designated official as soon as the need for the absence is known. An employee who is out for five consecutive days, or five days in a month, for a personal illness or injury must contact the care manager as specified in the current version of Regulation 4760.
- C. Each program manager or designee shall immediately contact the Office of Payroll Management if an employee who is paid monthly will be absent for an extended period of time (ten or more workdays) and has insufficient leave to cover the missed time.
- D. Each program manager or designee shall inform an employee who is absent more than five consecutive workdays that his or her leave will be counted as family medical leave under the Family and Medical Leave Act, if it qualifies. (Refer to the current version of Regulation 4835). In the case of a personal illness or injury, the care manager will so inform the employee. The approval of leave as family medical leave shall be done by staff members in the Department of Human Resources, Integrated Disability Management section.

**X. AUTHORIZATION**

- A. All sick leave absences must be reported on the appropriate leave request form or time report form by the employee and approved by the program manager or designee prior to the absence, if possible. If prior notification is not possible, sick leave should be reported immediately upon the employee's return to work.
- B. Requests for personal leave must be reported on the appropriate leave request form or time report form by the employee and approved by the program manager or designee at least two working days before of the date leave is to begin. In the event of an emergency, the request shall be made by the employee as far in advance as possible or immediately upon return to work. The employee shall not be required to specify a reason for personal leave.
- C. Leave hours used shall be entered into the time and attendance system by an authorized time and attendance processor. Leave shall be entered in an accurate and timely manner in accordance with published deadlines. If an employee has not completed the appropriate leave request form or time report form to reflect all leave absences prior to a time and attendance reporting deadline, the program manager should complete the appropriate form, with an indication that the employee's signature is not available, to ensure that all leave is accurately reported.

**XI. PAYMENT OF UNUSED SICK LEAVE**

- A. All school employees who are vested members of the Educational Employees' Supplementary Retirement System of Fairfax County (ERFC) or the Fairfax County Employees' Retirement System (FCERS) shall have their sick leave converted to retirement service credit in accordance with the rules and regulations that govern those systems.

Upon termination of employment with FCPS, eligible accumulated sick leave will be converted to retirement service credit under the retirement system in which employees are currently enrolled, unless sick leave is transferred pursuant to section VIII.D. Effective for retirements on or after July 1, 2007, employees who are participants in more than one system may request that their sick leave be converted to the system in which they are vested. Such requests must be in writing and must be submitted to the director of the Office of Benefit Services within 60 days prior to employment termination, with copies also provided to the executive directors of ERFC and FCERS. Members of ERFC and FCERS are not entitled to monetary payouts of unused sick leave, except that FCERS members who participate in the deferred retirement option program (DROP) may elect, at their time of entry into DROP, to retain a maximum of 40 hours of sick leave. Further, DROP participants who have a sick leave balance at the end of their DROP period of employment shall forfeit such sick leave balance. Employees who are not members of any retirement system and have not transferred their leave pursuant to section VIII.D. will forfeit unused sick leave on termination.

- B. Employees who are vested members of the Virginia Retirement System (VRS) exclusively are eligible for payment of unused sick leave upon termination of employment at the rate of \$1.25 per hour. Payment for unused sick leave is not automatic. Employees must contact the Office of Payroll Management within one year of termination to receive payment for unused sick leave.
- C. A former employee who returns to eligible employment and whose unused sick leave had previously been applied toward retirement service credit shall not have sick leave days reinstated but shall continue to receive retirement service credit for those previously unused sick leave days.
- D. A former employee who returns to eligible employment and received a payment of unused sick leave shall not have sick leave days reinstated.
- E. A former employee who returns to eligible employment within 12 months of termination and could not convert unused sick leave to retirement credit, or did not receive payment for sick days, or did not transfer a sick leave balance to another entity shall have sick leave days reinstated.

See also the current versions of:

Regulation 4235, Summer Employment--Educational Personnel  
Regulation 4760, Integrated Disability Management Program  
Regulation 4818, Short-Term Leave Without Pay  
Regulation 4822, Leaves of Absence  
Regulation 4835, Family Medical Leave