

***RECOMMENDED FOR DELETION –
INCORPORATED INTO POLICY GCBD: STAFF LEAVES AND ABSENCES**

~~SUPPORT STAFF LEAVES AND ABSENCES~~

~~All support staff employee leaves and absences shall be subject to school division policy and regulations. Regulations regarding leaves and absences shall include, but not limited to, provisions for eligibility, accrual, accumulation, use, pay status, and incentives. Leave regulations shall include provisions for banking or donation of sick leave.~~

~~The superintendent shall provide for the interpretation and application of the school division's policies and regulations regarding leaves and absences.~~

~~Adopted: November 17, 1998
Amended: November 21, 2002
Amended: June 5, 2003
Amended: January 13, 2005~~

~~Legal Refs.: Code of Virginia, 1950, as amended, section 22.1-78,~~

~~Cross Ref.: GCBE, Family and Medical Leave~~

~~File: GCBD/GDBD Regulations~~

~~Regulations for Licensed/Support/Administrator Leave~~

~~I. ——— PURPOSE ———~~

~~To set forth procedures and requirements for the voluntary sick leave donation program. The Voluntary Sick Leave Donation Programs allows for the transfer of unused accrued sick leave from one employee to another employee who needs such leave because of a qualifying health condition affecting the employee or a family member. The Voluntary Leave Donation Program is provided as a benefit to eligible employees. Participation in the program either as a leave recipient or leave donor is strictly voluntary. Acceptance of donated leave signifies agreement to the terms and conditions of this policy and its accompanying regulations including, but not limited to, submission of requested medical documents and required monitoring activities.~~

~~H. ——— ELIGIBILITY ———~~

~~Active employees eligible to accrue sick leave may participate in the leave donation program.~~

~~III. DEFINITION~~

~~A. Available Sick Leave—Accrued or accumulated sick leave under ACPS sick leave policies. Available sick leave does not include sick leave advanced to an employee.~~

~~B. Family Member—Any of the following:~~

~~(1) Spouse.~~

~~(2) Child—a biological, adopted, foster child, stepchild, legal ward, or a person to whom the employee stands *in loco parentis*.~~

~~(3) Parent—a biological parent, step parent, adopted parent or an individual who stands or stood *in loco parentis* to an employee when the employee was a child.~~

~~(4) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship for which the employee is the sole financially interdependent source of support.~~

~~C. Health Care Provider—A health practitioner authorized to practice medicine or surgery by the state where he/she practices or any person determined by the U.S. Secretary of Labor to be capable of providing health care services.~~

~~D. *In Loco Parentis*—Acting in the place of a parent, by assuming the responsibility for care and supervision of a child which a parent would ordinarily exercise.~~

~~E. Leave Donor—An employee approved by Human Resources to transfer sick leave~~

~~to the sick leave account of a leave participant.~~

~~F. Leave Recipient—A current employee for whom Human Resources has approved an application to receive sick leave from the sick leave account of one or more leave donors.~~

~~G. Donated Leave—The leave provided from a leave donor to a leave recipient.~~

~~H. Shared Leave Status—The time period when the leave recipient is utilizing donated leave.~~

~~I. Qualifying Health Condition~~

~~(1) any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice, or residential medical care facility;~~

~~(3) any period of incapacity requiring absence from work, school or other regular daily activities, for more than five consecutive work days, that also involves continuing treatment by, or under the supervision of, a health care provider; or~~

~~for (3) continuing treatment by, or under the supervision of, a health care provider a chronic or long term qualifying health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than five consecutive work days.~~

~~IV. LEAVE RECIPIENT APPLICATION~~

~~Any employee may make written application to Human Resources to become a leave recipient. If an employee is not capable of making application on his or her own behalf, a legally authorized personal representative may make written application for the employee. A complete Leave Recipient Application Packet shall include:~~

- ~~• a Leave Recipient Application.~~
- ~~• The reasons donated leave is needed, including a brief description of the nature, severity, and anticipated duration of the qualifying health condition, and if it is a recurring one, the approximate frequency of occurrence; and~~
- ~~• Medical certification, from a health care provider, of the qualifying health condition and the need for leave with respect to the qualifying health condition.~~

~~Human Resources shall review Leave Recipient Applications for the purpose of determining that a qualifying health condition exists under the definitions of this regulation and that the documentation indicates that the subsequent absence from duty, without available paid leave, will last at least five consecutive work days.~~

~~Human Resources will notify the leave recipient (or the legally authorized~~

~~personal representative) of the disposition of the application within ten (10) business days after the date Human Resources receives the completed application packet, unless additional information is requested. The burden is on the employee to provide a complete application packet and any other information requested. Human Resources will not review an application packet until it is complete. Upon approval, Human Resources will notify the leave recipient that other ACPS~~

~~employees may apply to transfer sick leave to the leave recipient's account.~~

~~If the application is denied, Human Resources will notify the applicant of the reasons for denial. Within five days of notification, the applicant may appeal, in writing, to the Superintendent or Superintendent's designee for an executive review of the disapproved application. The decision of the Superintendent or Superintendent's designee is final.~~

~~Leave recipients may receive a maximum of one hundred and twenty (120) days or six calendar months, whichever is least, of donated sick leave per approved application. An employee who fraudulently obtains donated leave will be subject to appropriate disciplinary action, including termination.~~

~~V. LEAVE DONOR APPLICATION~~

~~Any employee may apply to Human Resources to become a leave donor. The request form will include the specific number of days of accrued sick leave the leave donor wants to transfer from the leave donor's sick leave account to the sick leave account of a specified leave recipient.~~

~~Leave recipients will not be provided the names of leave donors.~~

~~Leave donors may donate a minimum of one day per leave recipient with the opportunity to increase the donation should the recipient require additional days.~~

~~A leave donor may donate a maximum of one half of annually allotted sick leave per school year, regardless of the number of leave recipients. Upon approval of the leave donor application, all donated leave will be transferred from the sick leave account of the donor, to the sick leave account of the leave recipient. Leave donations are final. Once donated, unused leave will not be returned.~~

~~VI. USE OF DONATED LEAVE~~

~~Leave recipients may only use donated sick leave for the purpose of a Human Resources approved qualifying health condition. Sick leave transferred under this section may be substituted retroactively for periods of leave without pay for the approved condition. Donated leave may also be used to liquidate indebtedness for advanced sick leave granted, for the approved condition, on or after the date the completed Leave Recipient Application Packet is received in Human Resources.~~

~~To the extent that an employee is entitled to family and medical leave for the same qualifying health condition, such leave shall be used concurrently with donated leave entitlement. To the extent that the employee is on FMLA leave, nothing in this policy is intended to alter, amend or~~

~~interfere with existing state or federal regulation. See also Regulation GCBE-R Family and Medical Leave.~~

~~VII.—DURATION AND SCHEDULING OF LEAVE~~

~~In order to avoid unnecessary disruption to the school system, ACPS may require adjustments in the scheduling of leave taken by employees under this policy. Such adjustments may include, but are not limited to, the transfer or return to an alternative position with equivalent pay and benefits if the employee is qualified for the position.~~

~~VIII.—TERMINATION OF QUALIFYING HEALTH CONDITION~~

~~Human Resources shall monitor the status of leave recipients to determine whether the qualifying health condition continues and may require additional documentation as deemed appropriate. At the request of Human Resources, the leave recipient shall obtain a second opinion by a health care provider, selected by and at the expense of the school division. The qualifying health condition shall terminate:~~

- ~~• When the leave recipient leaves ACPS employment.~~
- ~~• At the end of the pay period in which Human Resources determines that the leave recipient is no longer affected by the qualifying health condition; or~~
- ~~• At the end of the pay period in which Human Resources receives written notice from the leave recipient or legally authorized representative that the leave recipient is no longer affected by the qualifying health condition, in accordance with the definition in this regulation.~~

~~Human Resources will discontinue use of donated leave when the qualifying health condition terminates according to this section. A leave recipient may not receive a lump sum payment for donated sick leave when the recipient leaves employment with ACPS. Leave recipients will not retain unused donated leave after the qualifying health condition terminates.~~

~~IX.—RETURN TO WORK~~

~~An employee on shared leave shall provide the division with notification of the intent to return to work at least ten (10) work days prior to return. The employee shall be returned to this position he/she held prior to shared leave or to an alternate position for which he/she is qualified with equivalent benefits, and other terms and conditions of employment.~~

~~Prior to reporting for work, the employee on shared leave status due to his/her own serious health condition shall supply certification by the treating health care provider that the employee is able to return to work.~~

~~If an employee advises the school division that he/she does not intend to return to work, the employment relationship shall be deemed terminated and employee's entitlement to~~

~~reinstatement, continued leave and health benefit ceases. If the employee continues to be unable to return to work after the conclusion of the FMLA period and all shared leave has been exhausted, the employee may apply for leave without pay status in accordance with appropriate regulations or may be terminated.~~

~~An employee on shared leave has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the period of shared leave status.~~

~~X. — PROHIBITION OF COERCION~~

~~An employee may not directly or indirectly intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any employee's decision to either donate, use or receive sick leave under this regulation or other ACPS policies or regulations. An employee may not directly or indirectly intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of influencing any employee decision not to donate, use or receive sick leave under this regulation or other ACPS policies or regulations. The term "intimidate, threaten, or coerce" includes promising to confer or conferring any benefit (such as an appointment or promotion or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).~~

~~XI. — ADMINISTRATIVE PROCEDURES~~

~~Human Resources shall establish and administer procedures to permit the voluntary donation of sick leave consistent with this regulation and maintain records concerning the administration of the voluntary sick leave donation program.~~

~~Adopted: January 13, 2005~~