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The 2010 Florida Statutes(including Special Session A)

[Title XLVIII](#)
K-20 EDUCATION CODE

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PERSONNEL

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1012.61 Sick leave.—

(1) ELIGIBILITY.—Any member of the instructional staff or any other employee of a district school system employed on a full-time basis in the public schools of the state who is unable to perform his or her duty in the school on account of personal sickness, accident disability, or extended personal illness, or because of illness or death of father, mother, brother, sister, husband, wife, child, other close relative, or member of his or her own household, and consequently has to be absent from his or her work shall be granted leave of absence for sickness by the district school superintendent or by someone designated in writing by the district school superintendent to do so.

(2) PROVISIONS GOVERNING SICK LEAVE.—The following provisions shall govern sick leave:

(a) *Extent of leave.*—

1. Each member of the instructional staff employed on a full-time basis is entitled to 4 days of sick leave as of the first day of employment of each contract year and shall thereafter earn 1 day of sick leave for each month of employment, which shall be credited to the member at the end of that month and which may not be used before it is earned and credited to the member. Each other employee shall be credited with 4 days of sick leave at the end of the first month of employment of each contract year and shall thereafter be credited for 1 day of sick leave for each month of employment, which shall be credited to the employee at the end of the month and which may not be used before it is earned and credited to the employee. However, each member of the instructional staff and each other employee is entitled to earn no more than 1 day of sick leave times the number of months of employment during the year of employment. If the employee terminates his or her employment and has not accrued the 4 days of sick leave available to him or her, the district school board may withhold the average daily amount for the days of sick leave used but unearned by the employee. Such leave may be taken only when necessary because of sickness as prescribed in this section. The sick leave shall be cumulative from year to year. There shall be no limit on the number of days of sick leave which a member of the instructional staff or an educational support employee may accrue, except that at least one-half of this cumulative leave must be established within the district granting such leave.

2. A district school board may establish policies and prescribe standards to permit an employee to be absent 6 days each school year for personal reasons. However, such absences for personal reasons must be charged only to accrued sick leave, and leave for personal reasons is noncumulative.

3. District school boards may adopt rules permitting the annual payment for accumulated sick leave that is earned for that year and that is unused at the end of the school year, based on the daily rate of pay of the employee multiplied by up to 80 percent. Days for which such payment is received shall be deducted from the accumulated leave balance.

4. A district school board may establish policies to provide terminal pay for accumulated sick leave to instructional staff and educational support employees of the district school board. If termination of employment is by death of the employee, any terminal pay to which the employee may have been entitled may be made to his or her beneficiary. However, such terminal pay may not exceed an amount determined as follows:

a. During the first 3 years of service, the daily rate of pay multiplied by 35 percent times the number of days of accumulated sick leave.

b. During the next 3 years of service, the daily rate of pay multiplied by 40 percent times the number of days of accumulated sick leave.

c. During the next 3 years of service, the daily rate of pay multiplied by 45 percent times the number of days of accumulated sick leave.

d. During the next 3 years of service, the daily rate of pay multiplied by 50 percent times the number of days of accumulated sick leave.

e. During and after the 13th year of service, the daily rate of pay multiplied by 100 percent times the number of days of accumulated sick leave.

5. A district school board may establish policies to provide terminal pay for accumulated sick leave to any full-time employee of the district school board other than instructional staff or educational support employees. If termination of the employee is by death of the employee, any terminal pay to which the employee may have been entitled may be made to the employee's beneficiary. For purposes of computing the amount of terminal pay for accumulated sick leave, sick leave accrued after June 30, 2004, shall be compensated at no more than the daily rate of pay applicable at the time the sick leave was earned.

(b) *Claim must be filed.*—Any district school board employee who finds it necessary to be absent from his or her duties because of illness, as defined in this section, shall notify his or her immediate supervisor, if possible, before the beginning of the workday on which the employee must be absent or during that day, except for emergency reasons recognized by the district school board as valid. Any district school board employee shall, before claiming and receiving compensation for the time absent from his or her duties while absent because of sick leave as prescribed in this section, make and file within 5 working days following his or her return from such absence with the district school superintendent of the district in which he or she is so employed a written certificate which shall set forth the day or days absent, that such absence was necessary, and that the employee is entitled or not entitled to receive pay for such absence in accordance with the provisions of this section; however, the district school board of any district may adopt rules under which the district school superintendent may require a certificate of illness from a licensed physician or from the county health officer.

(c) *Compensation.*—Any employee having unused sick leave credit shall receive full-time compensation for the time justifiably absent on sick leave, but no compensation may be allowed beyond that which may be provided in subparagraph (2)(a)4.

(d) *Expenditure authorized.*—District school boards may expend public funds for payment to employees on account of sickness. The expending and excluding of such funds shall be in compliance with rules adopted by the Department of Management Services pursuant to chapter 650.

(e) *Use by family member.*—Each district school system must provide a policy under which a district employee may authorize his or her spouse, child, parent, or sibling who is also a district employee to use sick leave that has accrued to the authorizing employee. In developing the policy, the district school board must provide that the recipient may not use the donated sick leave until all of his or her sick leave has been depleted, excluding sick leave from a sick leave pool, if the recipient participates in a sick leave pool. Donated sick leave under this paragraph shall have no terminal value as provided in this subsection.

(3) **SICK LEAVE POOL.**—Notwithstanding any other provision of this section, a district school board, based upon the maintenance of reliable and accurate records by the district school system showing the amount of sick leave which has been accumulated and is unused by employees in accordance with this section, may, by rule or collective bargaining agreement, establish one or more plans allowing participating full-time employees of a district school system to pool sick leave accrued and allowing any sick leave thus pooled to be disbursed to any participating employee who

is in need of sick leave in excess of that amount he or she has personally accrued. Such rules or agreements shall include, but not be limited to, the following provisions:

- (a) Participation in any sick leave pool shall at all times be voluntary on the part of employees.
- (b) Any full-time employee shall be eligible for participation in any sick leave pool after 1 year of employment with the district school system, provided the employee has accrued a minimum amount of unused sick leave which shall be established by rule and provided, further, a sick leave pool is established that allows participation by that particular employee.
- (c) Any sick leave pooled pursuant to this section shall be removed from the personally accumulated sick leave balance of the employee donating such leave.
- (d) Participating employees shall make equal contributions to the sick leave pool. There shall be established a maximum amount of sick leave which may be contributed by an employee to the pool. After the initial contribution which an employee makes upon electing to participate, no further contributions shall be required except as may be necessary to replenish the pool. Any such further contribution shall be equally required of all employees participating in the pool.
- (e) Any sick leave time drawn from the pool by a participating employee must be used for said employee's personal illness, accident, or injury.
- (f) A participating employee is not eligible to use sick leave from the pool until all of his or her sick leave has been depleted, unless otherwise agreed to in a collective bargaining agreement. There shall be established a maximum number of days for which an employee may draw sick leave from the sick leave pool.
- (g) A participating employee who uses sick leave from the pool is not required to recontribute such sick leave to the pool, except as otherwise provided in this section.
- (h) A participating employee who chooses to no longer participate in the sick leave pool is not eligible to withdraw any sick leave already contributed to the pool.
- (i) Alleged abuse of the use of the sick leave pool shall be investigated and, on a finding of wrongdoing, the employee shall repay all of the sick leave credits drawn from the sick leave pool and be subject to such other disciplinary action as determined by the district school board to be appropriate. Rules adopted for the administration of this program shall provide for the investigation of the use of sick leave utilized by the participating employee in the sick leave pool.

History.—s. 737, ch. 2002-387; s. 1, ch. 2004-360; s. 192, ch. 2008-4.

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