

LEAVE-WITHOUT-PAY**Protected Leave Without Pay**

1. Eligible employees are entitled to LWOP according to the following policies, statues, and acts:
 - a. Policy #5400 *Family Medical Leave and Sick Leave*;
 - b. Public Law 103-3 Family and Medical Leave Act of 1993 (FMLA);
 - c. Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA);
 - d. Executive Order 5396, July 17, 1930 (see *Leave without Pay Entitlement Statutes* Exhibit #5425E); and
 - e. Under certain conditions with Workers Compensation as determined by the Department of Labor.
2. Leave without pay **shall not** carry over from one fiscal year to the next.

Conditional Leave Without Pay

1. On a limited basis, employees may request leave-without-pay to be used as unpaid additional personal or sick leave. Such requests require approval by the employee's Supervisor.
 - a. Before requesting unpaid leave, the employee should exhaust all eligible leave.
 - b. Using unpaid leave may affect the employee's entitlement to or eligibility for certain benefits.
2. Supervisors **are not** obligated to approve leave-without-pay requests.
 - a. Granting conditional leave without pay is a matter of supervisory discretion. Supervisors are not obligated to approve leave-without-pay requests. Permission to use LWOP should be based on the condition that student educational needs and District operational efficiency are not compromised.
3. The employee's supervisor may approve leave-without-pay requests that do not exceed a maximum of five (5) days.

Extended Conditional Leave Without Pay

Extended leave-without-pay **is not** job-protected leave unless it falls within Federal Government guidelines.

1. In addition to approval by the employee's Supervisor and the Superintendent/designee, requests for extended conditional leave-without-pay for more than five (5) days must be presented to the Board of Trustees for consideration.
2. The Board may act upon such request at its own discretion at a regularly scheduled Board meeting.
3. If the employee's request for extended conditional leave is approved by the Board of Trustees, efforts will be made to place her/him in the same or similar position with similar pay upon their return to work; however, the employee's position or work location **may not** be guaranteed upon return.
4. Extended leave without pay **shall not** carry over from one fiscal year to the next.

Denial of Requests

In the event that a request for leave-without-pay is denied, the employee:

1. Shall report to work as usual, or
2. May resign from his/her position.

Grounds for Disciplinary Action

Unauthorized LWOP absences shall be considered a breach of contract or neglect of duty and may be sufficient grounds for disciplinary action, up to and including termination.

Placement of Leave Without Pay Requests in Personnel File

Appropriate documentation shall be placed in the employee's personnel file.

DEFINITIONS

Appropriate Documentation: includes but is not limited to the following: documentation required by FMLA, Workers Compensation, USERRA, fulfilling responsibilities for elected office, or a physician's statement.

Extended Leave-Without-Pay: an absence of more than five (5) days where an employee has no paid leave to cover the absence and appropriate salary reductions are made.

Leave-Without-Pay: Leave without pay (LWOP) is a temporary non-pay status and absence from duty of five (5) days or less when an employee has no paid leave to cover the absence and appropriate salary reductions are made.

PERSONNEL

Adopted: 05-19-2009 Reviewed: Revised: 04-13-2016
12-13-2017

Cross-Reference: Family Medical and Sick Leave #5400
Sick Leave Procedures #5400P1
Bereavement Leave #5402
Personal Leave #5404
Personal Leave Procedures #5404P
Family and Medical Leave Procedures #5410P2
Jury Duty #5412
Military Leave #5427
Full-Time Sick Leave Bank #5429
Full-Time Sick Leave Bank Procedures #5429P
Substitutes for Instructional Staff #5700
Substitutes for Instructional Staff #5700P

Legal Reference: IDAPA 59.01.02 Eligibility Rules of the Public Employee Retirement System of Idaho (PERSI)